ACTS

PASSED BY THE

GOVERNOR OF BOMBAY IN COUNCIL

IN THE

BENGAL SECRETARIAT LIBRARY

Years 1878-79-80.

Bombay:
PRINTED AT THE GOVERNMENT CENTRAL PRESS.

1882.

TITLES

OF

ACTS PASSED BY THE GOVERNOR OF BOMBAY IN COUNCIL IN THE YEARS 1878, 1879, AND 1880.

1878.

ACT No. I.—An Act to amend the law for regulating the control of the manufacture of spirituous liquors, and for the realization of the Abkári Revenue in the City of Bombay

ACT No. II.—An Act to amend Bombay Act II. of 1868.

ACT No. III.—An Act for the licensing of Trades, Dealings and Industries in the Presidency of Bombay.

ACT No. IV.—An Act to amend the Bombay Municipal Act of 1872, and to continue the same as so amended.

ACT No. V.—An Act to consolidate and amend the Abkári Law of the Presidency of Bombay.

ACT No. VI.—An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.

ACT No. VII.—An Act to amend the law for the prevention of adulteration of Cotton and for the suppression of fraudulent practices in the Cotton Trade.

1879.

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ACT No III.—An Act to provide for the levy of Fees for the use of Government Landing-places in the Port of Karáchi.

ACT No. IV.—An Act to prohibit the practice of Inoculation and to make the Vaccination of children in the Town of Karáchi compulsory.

ACT No. V.—The Bombay Land Revenue Code.

ACT No. VI.—An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay, and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

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ACT No. III.—An Act to amend the Bombay Irrigation Act No. VII. of 1879.

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"Wharf"	...	...	*ib.*	7
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	Year.	Act.	Section.	Clause.
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	Year.	Act.	Section.	Clause.
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Extent to which Section 4 of the above Act made applicable	...	...	5	...

	Year.	Act.	Section.	Clause.
Sind, introduction of Municipal Act into—*continued.*	1879	I.	...	...
Saving of pending proceedings ...	...	...	6	...
Tree defined—Ownership in.—(See Land Revenue)	1879	V.	40	...
Trustee—(See Port Trust).				
Vaccination—(Karáchi)	1879	IV.	...	...
Interpretation	...	...	2	...
Establishment	...	...	3—6	...
Vaccination	...	...	7	...
Inspection	...	...	8	...
Re-vaccination	...	...	...	...
Certificate, if child unfit for ...	...	...	9	...
When successive postponement certificates granted	...	...	*ib.*	...
Certificate when child is susceptible to .	...	...	10	...
If successful	...	...	11	...
To be performed ordinarily with animal lymph	...	...	12	...
No fee to be charged	...	...	13	...
Registration	...	...	14—19	...
Prosecutions and offences... ...	...	...	20—28	...
Books and forms	...	...	29	...
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Civil Surgeon to make rules ...	...	...	31	...
Forms of certificates	...	...	Sch. A,B.C.	...
Notice of requirement of vaccination ...	...	...	D.	...
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Vexatious delay, penalty for	1878	V.	50	...
Vexatious entries—Seizure, &c., penalty for .	...	...	49	...
Water-courses.—(See Irrigation)				
Water-rates (Do.)				

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

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BOMBAY ACT No. I. of 1878.

[*Received the assent of the Governor of Bombay on the 28th November* 1877, *and of the Governor General on the 24th January* 1878, *and published by the Governor of Bombay on the 7th February* 1878.]

An Act to amend the law for regulating the Control of the Manufacture of Spirituous Liquors, and for the realization of the Abkari Revenue in the City of Bombay.

WHEREAS it is expedient to repeal Act XVII. of 1859, and to improve the system in force in the City of Bombay for controlling the manufacture of spirituous liquors, and for realizing the Abkári revenue; It is enacted as follows :— Preamble.

I.—Preliminary.

1. This Act may be cited as "The City of Bombay Abkári Act." Short Title.

It extends only to the City of Bombay. Extent.

2. Act XVII. of 1859 is hereby repealed: provided that any license granted under the provisions of that Act which may be in force at the date on which this Act shall come into operation, shall continue in force for such period as may be therein specified, subject to the provisions of the said Act XVII. of 1859: Repealing Section.

Provided, further, that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into operation.

3. In

[*Price Two and a Half Annas.*]

Interpretation Section.

3. In this Act, unless there be something repugnant in the subject or context:

"Collector."

(1.) "Collector" means the Collector of Bombay; or any other officer specially appointed by Government for the purposes of this Act.

"Manufacture."

(2.) "Manufacture" includes every process, whether natural or artificial, by which any spirituous, fermented, or intoxicating liquor is prepared, and also every process for the rectification of liquor. Admixing is a process within the meaning of this definition.

"Toddy."

(3.) "Toddy" means juice drawn from a cocoanut, brab, date, or any kind of palm tree, whether in its fermented or unfermented state.

"Spirituous liquor."

(4.) "Spirituous liquor" includes spirits of wine and all liquid consisting of or containing alcohol.

"Abkári revenue."

(5.) "Abkári revenue" means revenue derived or derivable from any duty, fee, tax, fine, or confiscation imposed or ordered under the provisions of this Act.

II.—Abkári Revenue Administration.

Collection and management of Abkári revenue vested in the Collector.

4. The duty of collecting the Abkári revenue and of enforcing the provisions of this Act, is vested in the Collector, subject to the orders of Government; and the collection of Abkári revenue may be made by him immediately, or through farmers subject to his control, as may from time to time seem expedient.

III.—Drawing of Toddy.

License for drawing toddy.

5. No person shall draw toddy or tap any tree for the purpose of drawing toddy therefrom, except under the authority and subject to the terms and conditions of a license to be granted in this behalf by the Collector.

For

For every tree tapped for the purpose of drawing toddy, there shall be levied for every year in which such tree is tapped, a duty at such rates as Government may from time to time by notification in the *Bombay Government Gazette* direct.

Every tree tapped for the purpose of drawing toddy to be liable to duty.

6. Every license granted by the Collector under the last section shall specify :

License what to contain.

(1) The number, description and situation of the trees to be tapped;

(2) The period for which such license is to be enforced;

(3) The amount of duty to be levied in respect of each tree included in the license, and the instalments, if any, in which, and the periods at which, such duty shall be payable; and,

(4) Any other terms or conditions which the Collector, subject to the orders of Government, may deem fit to enforce.

IV.—Import of Liquor.

7. No toddy or spirituous liquor shall be conveyed into the City of Bombay from any place situated without the said City, unless

Toddy or spirituous liquor not to be conveyed into Bombay without a pass.

(*a*) it is liable to the payment of duty under the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported into British India, and the duty prescribed by such law has been paid thereon; or

(*b*) such conveyance is permitted under the power next hereinafter conferred.

Subject to the orders of Government, the Collector may, from time to time,

(*b*) permit toddy or spirituous liquor, other than liquor liable to the payment of duty under such law as aforesaid, to be conveyed into the said City on payment

payment of such duty as the Governor in Council from time to time directs by notification in the *Bombay Government Gazette*, and on such other terms as he thinks fit, and

(*d*) cancel such permission:

Proviso.

Provided that nothing in this section shall be deemed to affect any law for the time being in force which prohibits or restricts the importation of toddy or of any spirituous liquor into the said city, or which empowers the Governor-General in Council to prohibit or restrict such importation, or which empowers the Governor-General in Council to exempt toddy or any spirituous liquor from the whole or any part of the duties of customs to which it is liable under any law for the time being in force.

Sale or barter of toddy prohibited except in certain cases.

8. Except as hereinafter provided, no person shall sell, barter, or otherwise dispose of toddy unless he possesses a license issued under Bombay Act IX. of 1867:

Provided that any person possessing a license under Section 5 of this Act for drawing toddy may sellt barter, or otherwise dispose of any toddy drawn under such license, and any person conveying any toddy under the provisions of Section 7 of this Ac- into the City of Bombay may sell, barter, or other, wise dispose of the same,

(*a*) to any person licensed to manufacture spirituous liquor under Section 9 of this Act, or

(*b*) to any person who possesses a license issued under Bombay Act IX. of 1867.

V.—Manufacture of Spirituous Liquors.

Licenses for manufacture of spirituous liquor.

9. No spirituous liquor shall be manufactured and no person shall use, keep, or have in his possession any still or other utensil or apparatus for the manufacture of spirituous liquor, except under the authority and subject to the terms and conditions of

of a license to be granted in this behalf by the Collector.

For every license granted under this section such fee shall be charged as the Governor in Council shall, by notification in the *Bombay Government Gazette*, from time to time direct. And to be paid for by fees.

10. Every license granted by the Collector under the last section shall specify: License what to contain.

(1) The place at which the liquor is to be manufactured, and the materials to be used in such manufacture:

(2) The maximum proof strength of the liquor to be manufactured:

(3) The period for which such license is to be in force:

(4) Any other terms or conditions which the Collector, subject to the orders of Government, may deem fit to enforce.

11. Spirituous liquor manufactured under a license granted under Section 9 shall, if the Government so direct, be liable to a duty, varying according to the strength of the same, at such rates as the Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, prescribe; and the manufacture of the same shall be subject to such supervision as the Collector may from time to time deem necessary. Duty on spirituous liquor.

VI.—Penalties, &c.

12. It shall be lawful for the Collector at any time to cancel any license granted by him under any of the provisions of this Act in the event of default in the payment of duty, or of any breach of any of the terms or conditions of such license. Cancellation of licenses.

13. Any person contravening any of the provisions of Section 5 or 8 of this Act shall be punished with Penalty for contraven-

ing Section 5 or 8; with fine, which may extend to five hundred rupees for each such offence.

And for contravening Section 7 or 9.

And any person contravening any of the provisions of Section 7 or 9 of this Act shall be punished for each such offence with fine which may extend to one thousand rupees or with imprisonment of either description within the meaning of the Indian Penal Code, for a term which may extend to six months, or with both.

Liability to confiscation.

All stills, implements, utensils, and other apparatus and all material whatever used in the manufacture of spirituous liquor contrary to any of the provisions of this Act, or to the terms or conditions of any license granted under this Act, and all spirituous liquor so manufactured, and all toddy drawn contrary to any of the provisions of this Act, or of any such license, and all spirituous liquor and toddy conveyed into the City of Bombay contrary to any of the provisions of this Act, or to any of the terms on which the same is permitted to be conveyed into the city, and the vessels, packages and coverings in which any toddy, spirituous liquor, still, utensil, implement, apparatus or material aforesaid is found, and the other contents, if any, of the vessel or package in which the same is found, and the animals, carts, vessels or other conveyances used in carrying the same, shall be liable to confiscation.

Penalty for vexatious search or arrest.

14. Any officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel, or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches, or arrests any person,

shall for every such offence be punished with fine which may extend to five hundred rupees.

15. All

15. All offences against this Act shall be cognizable by a Presidency Magistrate; and all confiscations under this Act shall be adjudicated by such Magistrate, and sold under his warrant.

Cognizance of offences and adjudication of confiscation.

16. All penalties and confiscations levied under this Act shall vest in Government; but a moiety of any fine may, at the discretion of the Collector, be paid to the person, or persons, through whose means the offence may have been detected. If more persons than one be entitled to the reward, it shall be divided among them in such proportions as the Collector may think fit.

Appropriations of penalties and confiscations.

VII.—Powers of Collector and of his Subordinates.

17. The Collector and any of his subordinates superior in rank to a peon, and any Police Officer superior in rank to a Constable, may

Power to enter and inspect places of manufacture, &c.

(*a*) enter and inspect, at any time by day or by night, any shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of toddy or of any spirituous liquor, or stores any such toddy or liquor, and examine, test, measure, or weigh any such person's stock of toddy or spirituous liquor, or materials; or

(*b*) enter, at any time by day or by night, any building, vessel or enclosed place in which he has reason to believe that toddy or spirituous liquor liable to confiscation under this Act is drawn, manufactured, kept, or concealed, or that any still or other utensil or apparatus for the manufacture of spirituous liquor is used, kept, or concealed contrary to the provisions of this Act; and

(*c*) in case of resistance break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel, or other place; and

(*d*) seize any toddy or spirituous liquor and any material used in the manufacture thereof, and any still, utensil, or other apparatus and any other thing

which

which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to Abkári revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to Abkári revenue.

Power to seize liquor, &c., in open places, and to detain, search and arrest.

18. The Collector and any of his subordinates, and any officer of the Departments of Police, Customs, Salt, Opium or Revenue, or of the Bombay Port Trust, may

(*a*) seize in any open place, or in transit, any toddy or spirituous liquor or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to Abkári revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and if such person has any such toddy or spirituous liquor or other thing in his possession, arrest him.

Officers of certain departments bound to assist.

19. All officers of the Departments of Police, Customs, Salt, Opium or Revenue, or of the Bombay Port Trust, shall, upon notice given, or request made, be legally bound to assist the Collector or any of his subordinates in carrying out the provisions of this Act.

Issue of warrants.

20. The Collector or any Presidency Magistrate may issue a warrant

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to Abkári revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel, or place in which he has reason

reason to believe that any toddy or spirituous liquor is drawn, manufactured or sold, contrary to the provisions of this Act, or that any toddy, spirituous liquor, or other thing liable to confiscation under this or any other law for the time being in force relating to Abkári revenue is kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the law for the time being in force for the execution of warrants for arrest or search issued by a Presidency Magistrate, by a Police Officer, or by a subordinate of the Collector, or, if the officer issuing the warrant deems fit, by any other person:

Provided that no search warrant issued under this section shall be executed by an officer who is not superior in rank to a peon or constable.

Disposal of person arrested or thing seized.

21. Every person arrested and thing seized under Section 17 or 18 shall be forwarded without delay to the officer in charge of the nearest Police-station, who shall deal with the case as one of an offence for which the Police may arrest without a warrant; and every person arrested and thing seized under Section 20 shall be forwarded without delay to the officer by whom the warrant was issued.

If the officer, to whom any person arrested or thing seized under Section 20 is forwarded, be not himself a Presidency Magistrate, he shall, after such inquiry as he thinks necessary, send such person or thing with all convenient despatch to a Presidency Magistrate, or order the immediate discharge of such person, or the release of such thing.

VIII.—Miscellaneous.

Fees and duty imposed by this Act may be recovered as arrears of land-revenue.

22. All sums due by any person on account of any fee or duty chargeable under this Act may be recovered by the Collector of Bombay in the same way as an arrear of land-revenue may be recoverable by him under the provisions of any law at the time being in force.

23. It

Collector to frame rules.

23. It shall be lawful for the Collector, with the previous sanction of Government, to frame rules not inconsistent with the provisions of this Act:

(*a*) determining the number of licenses to be granted for the manufacture of spirituous liquor, and the places where such manufacture may be carried on;

(*b*) regulating the number, size and description of stills to be used in any distillery;

(*c*) providing for the inspection and supervision of stills and distilleries;

(*d*) generally for the guidance of all persons in matters connected with the enforcement of this Act:

and from time to time vary or repeal the same.

Act XVI, of 1863 not to be affected.

24. Nothing in this Act shall affect the provisions of Act XVI. of 1863.

BOMBAY ACT No. II. of 1878.

[*Received the assent of the Governor of Bombay on the* 10*th January* 1878, *and of the Governor-General on the* 15*th February* 1878, *and published by the Governor of Bombay on the* 23*rd February* 1878.]

An Act to amend Bombay Act II. of 1868.

WHEREAS it is expedient to amend the Bombay Ferries Act, 1868; it is enacted as follows :—

1. To section three of the said Act the following clause shall be added (namely) :—

Addition of an exemption clause to Section 3 of Bombay Act II. of 1868.

"(*d*) Any person whom the Governor in Council shall, by notification in the *Bombay Government Gazette*, deem fit specially to exempt from payment of such tolls."

2. After section fourteen of the said Act the following section shall be inserted :

Addition after Section 14 of Bombay Act II. of 1868.

"14A. Any person who, except as is aforesaid, shall convey for hire any animal, cart, carriage or goods across any river or creek between two points both of which are less than three miles distant from a bridge at which under the provisions of any law for the time being in force a toll is leviable on animals, carts, or carriages ; or

Penalty for conveying animal, &c., across creek or ferry near a bridge on which tolls are leviable;

"who shall convey for hire any passenger, or any pálankin, doolee, pálná, or tonjon, or other thing across any river or creek between two such points as aforesaid when under the provisions of any law for the time being in force a toll is leviable at the bridge on passengers, pálankins, doolees, pálnás, tonjons, or such other thing;

and for conveying passengers, &c. near such bridge.

"shall be liable to a penalty not exceeding five hundred rupees."

[*Price Half Anna.*]

BOMBAY ACT No. III. of 1878.

[*Received the assent of the Governor of Bombay on the* 13*th February* 1878, *and of the Governor-General on the* 11*th March* 1878, *and published by the Governor of Bombay on the* 19*th March* 1878.]

An Act for the licensing of Trades, Dealings and Industries in the Presidency of Bombay.

WHEREAS, in order to provide means for defraying the public expenditure from time to time incurred and to be incurred for the relief and prevention of famine, it is necessary to effect a permanent increase of the provincial revenue; and it is therefore expedient that persons carrying on trades, dealings and industries in the Presidency of Bombay should take out licenses and pay for the same; it is hereby enacted as follows:— Preamble.

Preliminary.

1. This Act may be called "The Bombay License Act, 1878." Short title.

It extends to the whole of the Presidency of Bombay; but nothing herein contained applies to persons earning their livelihood solely by agriculture. Extent.

2. In this Act "Collector" means the chief officer in charge of the revenue-administration of a district, and in the city of Bombay, the Collector of Bombay. "Collector" defined.

Licenses.

3. Every person who, on or after the first day of April 1878, falls under any one or more of the heads specified in the Schedule A, and carries on (whether on behalf of himself or any other person) his Annual licenses to be taken out.

[*Price Two and a Half Annas.*]

his trade, dealing or industry shall take out a license under this Act, and shall pay for the same the annual fee mentioned in Schedule B as payable by persons of the class to which he shall be determined under the provisions hereinafter contained to belong: Provided that no person shall be required to take out more than one license or to pay more than one fee annually.

Officer to grant license.

4. Every license under this Act shall be granted by the Collector of the district or place in which the person requiring such license carries on his trade, dealing or industry: provided that, if such person carries on such trade, dealing or industry in more than one district or place, the license shall be granted by the Collector of the district or place in which his principal place of business is situate.

Government shall have power to declare, in cases of doubts, what shall for the purposes of this Act be deemed to be such principal place of business.

Collector to determine class under which licensee is to be charged.

5. The Collector shall, from time to time, determine under which of the classes mentioned in Schedule B every person to whom a license may be granted by him as aforesaid shall be charge.

Particulars to be specified in the license.

6. Every such license shall specify—

(*a*) the date of the grant thereof;

(*b*) the name, father's name, caste, (or in the case of a firm, the name under which such firm carries on its trade, dealings or industry) and the trade, dealing or industry of the person to whom the license is granted;

(*c*) the class to which such person belongs;

(*d*) the fee paid for the license;

(*e*) the place or places where such person intends to carry on his trade, dealing or industry for the ensuing year; and

(*f*) the term for which the license shall remain in force,

and shall be received in evidence as *primâ facie* proof of all matters contained therein.

7. Every

7. Every such license shall have effect and continue in force from the day of the date thereof till the first day of January next after the date of the grant thereof.

Commencement and expiration of license.

8. Every person to whom any such license has been granted, and who desires to continue to carry on his trade, dealing or industry after the expiration thereof, shall take out a fresh license for that purpose, for the following year, to expire on the day appointed in the last preceding section, and shall renew the same from year to year so long as he desires to continue to carry on such trade, dealing on industry.

Renewal of license.

List of Persons to be licensed.

9. As soon as may be after the first day of April 1878 and the first day of January in every subsequent year, the Collector shall prepare a list of the persons to be licensed under this Act in the district or place under his jurisdiction. Such list shall state—

Collector to prepare annual list of licensees.

(*a*) the trade, dealing or industry of each of the persons therein named;

(*b*) the class under which he is charged; and

(*c*) the fee to be paid for his license.

Such list shall be in such language as Government may direct, but a copy or translation thereof in the language of the district, shall be filed in the office of the Collector, and shall be open to public inspection at all reasonable times without any payment.

The Collector may, if he thinks fit, instead of preparing a fresh list each year, amend the previous year's list, which shall then be taken to be the list for the new year.

10. The list or such part or parts thereof as the Collector thinks fit shall be published in the principal bazaars, and at all police stations of all towns and at some conspicuous place in all villages concerned, together

Publication of list and notification.

together with a notification that if any person mentioned in such list continues his trade, dealing or industry, he must pay the amount specified in the list as payable by him and take out a license in the year 1878 within thirty days of such publication in that year and within thirty days next after the first day of January in each succeeding year, and that if any person not mentioned in such list who falls under any of the heads specified in Schedule A continues his trade, dealing or industry he must apply to the Collector for a license within the said period, and in the event of his failing so to do, will be liable to the penalty prescribed in Section fifteen.

Hearing of Objections.

Petition of objector.

11. Any person objecting to the class under which he is charged may, within thirty days after such publication, or within such further time as the Collector may in each case think fit, apply by petition to the Collector in order to establish his right to have his name transferred to another class, or altogether omitted from the list.

Hearing of petition.

12. The Collector shall fix a day for the hearing of the petition, and on the day so fixed, or on such subsequent day as he may from time to time direct, shall hear the same and pass such order thereon as he thinks fit:

Provided that if, in his judgment, the petitioner is able to show that the fee which has been charged exceeds two per cent. upon his annual net earnings, he shall transfer his name to another class, or direct that it be altogether omitted from the list, as shall appear to him necessary.

Collector may summon witnesses, &c.

13. For the purpose of enabling him to determine under which class a petitioner should be charged, the Collector may summon and enforce the attendance of witnesses and compel them to give evidence, and compel the production of documents by the same means

means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure:

Provided that the Collector shall not call for any evidence except at the instance of the petitioner, or in order to ascertain the correctness of facts alleged by him.

Power to remit fee.

14. Subject to the general orders of Government, the Collector may in his discretion remit the whole or any part of the fee payable under this Act by any person who has carried on his trade, dealing or industry for a portion of the year only.

Penalties.

Penalty for carrying on business without a license.

15. If, after expiry of the period mentioned in the notification published under Section ten, any person who falls under any of the heads specified in Schedule A carries on his trade, dealing or industry without having applied for or taken out a license he shall be liable, by order of the Collector, to pay a fine not exceeding thrice the amount payable by him in respect of such license, exclusive of the amount so payable; and on receipt of such payment the Collector shall grant him a license.

All sums due under this section and all fees payable under this Act shall be recoverable as if they were arrears of land-revenue.

Penalty for not producing license on demand.

16. Every person required by this Act to take out a license who without reasonable excuse neglects or refuses to produce and show his license when required so to do by an officer generally or specially empowered in writing by the Collector to make such requisition, and

Every owner or occupier of a house or shop who without reasonable excuse fails to forward a statement to the Collector when required so to do under Section 22,

Shall,

Shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one hundred rupees.

Prosecution to be at instance of Collector.

But no person shall be proceeded against for any such neglect, refusal or failure, except at the instance of the Collector.

Miscellaneous.

Receivers and managers chargeable.

17. Receivers and managers appointed by any Court in British India shall be chargeable under this Act in respect of any trade, dealing or industry of which the income is officially in their possession or under their control.

Power to retain assessment paid by trustee, &c.

18. When any trustee, guardian, administrator, curator, committee or agent is charged under this Act in such capacity, or when any receiver or manager appointed by any Court is charged under this Act, every person so charged may, from time to time, out of the money coming to his possession as such trustee, guardian, administrator, curator, committee or agent, or as such receiver or manager, retain so much as is sufficient to pay the fee charged.

Every such person is hereby indemnified for every retention and payment made in pursuance of this Act.

Disposal of fees and penalties.

19. All fees and penalties paid or recovered under this Act shall be carried to the credit of the Government of Bombay.

The net amount so credited shall be applied, in such manner as the Governor-General in Council thinks fit, for the purpose of defraying expenditure incurred or to be incurred for the relief and prevention of famine in any of the territories administered by the said Government, or, if the Governor-General in Council so directs, in any other part of British India.

20. All

20. All or any of the powers and duties conferred and imposed by this Act on a Collector may, subject to the orders of the Collector, be exercised and performed by an Assistant or Deputy Collector, or by a Mámlatdár or Máhálkari, or such other officer as Government from time to time appoints in this behalf.

Powers of Collector under Act may be exercised by other officers.

In the city of Bombay the Municipal Commissioner shall, so far as regards letters out of conveyances, horses or cattle and owners of conveyances, horses or cattle plying for hire in the said city, exercise all the powers and perform all the duties of the Collector under this Act; and shall pay to Government the annual net proceeds of the fees so levied by him: provided that in the case of all such persons in the said city it shall not be necessary to publish a list or notification as required by Section ten, and that the fees payable by them may be recovered by the Muncipal Commissioner at the same time or times and in the same manner as any tax payable by them to the Municipality is recovered.

Municipal Commissioner of Bombay to be a Collector for certain purposes.

21. Every person shall be legally bound to furnish information to any officer exercising any of the powers of a Collector under this Act when required by him to do so.

Obligation to furnish information to Collector.

22. The Collector may, by a notice in writing, require the owner or occupier of any house or shop to forward to him a statement in writing signed by such owner or occupier of the names of all persons residing in such house or working or having any concern in such shop at the date of the notice and of their respective callings or occupations.

Collector may require list of persons in any house or shop.

23. No order passed by a Collector under this Act shall be open to appeal.

No appeal from Collector's order.

24. Government may, from time to time,

(*a*) exempt any local area, or any persons, or class of persons, from the operation of this Act;

Power to exempt and make rules.

(*b*) exempt

(*b*) exempt from the operation of this Act any persons whose respective net annual earnings are less than such sum as Government may, from time to time, direct in this behalf;

(*c*) make rules consistent with this Act, (1) for defining more precisely the classes of persons named in Schedule A as liable under this Act; (2) for regulating the time and manner of collecting the fees charged under this Act; (3) for providing in any case or class of cases for serving notices on persons charged under this Act; (4) for modifying the fees chargeable to members of the same family when living and working together; and (5) generally for the guidance of Officers in matters connected with the enforcement of this Act.

SCHEDULE A.

(*See Section* 3).

Persons required to take out Licenses under this Act.

Companies registered under the Indian Companies Act, 1866.

Bankers.

Commission Agents.

Brokers.

Manufacturers.

Contractors.

Hotel-keepers.

Money-changers.

Ship or boat-owners.

Letters out of conveyances, horses, or cattle.

Owners of conveyances, horses or cattle, plying for hire.

And all persons carrying on trades, dealings, or industries of any kind whatsoever.

SCHEDULE B.

(*See Section* 3.)

Fees payable by persons required to take out Licenses under this Act.

Class	I.	Rs.	200	Class	IX.	Rs.	20
,,	II.	,,	150	,,	X.	,,	15
,,	III.	,,	100	,,	XI.	,,	10
,,	IV.	,,	80	,,	XII.	,,	7
,,	V.	,,	60	,,	XIII.	,,	5
,,	VI.	,,	40	,,	XIV.	,,	3
,,	VII.	,,	30	,,	XV.	,,	2
,,	VIII.	,,	25				

B 294—2

BOMBAY ACT No. IV OF 1878.

[*Received the assent of the Governor of Bombay on the 13th February* 1878, *and of the Governor-General on the* 19*th June* 1878, *and published by the Governor of Bombay on the* 18*th July* 1878.]

An Act to amend the Bombay Municipal Act of 1872, and to continue the same as so amended.

WHEREAS the period of three years for which it was provided by Section 307 of the Bombay Municipal Act of 1872 that the said Act should be in force expired on the 19th day of June 1876, and the period of the operation of the said Act has been temporarily extended by the Governor in Council by notifications issued from time to time under the provisions of the said section until the 31st December 1878;

And whereas it is expedient that the said Act, which is hereinafter referred to as "the Principal Act," should be continued, subject to the modifications hereinafter appearing, permanently, and that the Acts heretofore passed for amending the Principal Act should be consolidated; It is enacted as follows:—

1. This Act may be cited as "The Bombay Municipal Act Amendment and Continuance Act, 1878," and this Act and the Principal Act may be together cited as "The Bombay Municipal Acts of 1872 and 1878." Short title.

So much of this Act as relates to any rate or tax leviable by the Corporation other than town duties shall Commencement.

[*Price Twelve Annas.*]

shall be deemed to have come into force on the first day of January 1878; the rest of this Act shall come into force on the passing thereof.

This Act to be taken as part of Bombay Act III. of 1872.

2. This Act shall be read with, and taken as part of, the Principal Act.

Repeal of certain enactments.

3. Sections 37, 75, 87, 88, 89, 97, 98, 99, 100, 101, 102, 103 and 307 of the Principal Act and Bombay Acts II. of 1873, II. of 1875 and II. of 1877 are repealed, but the repeal of Bombay Act II. of 1877 shall not affect the validity of anything expressly made, or declared to be legal or valid by the said Act.

The following headings in the body of the Principal Act shall be omitted (namely):—

the heading "*Occupiers' Rates*" prefixed to section eighty-six;

the heading "*General Provisions regarding Occupiers' Rates*" prefixed to section ninety-seven.

Repeal of certain parts of Bombay Act III. of 1872 named in Schedule.

4. The words quoted in the second column of the Schedule to this Act from the sections of the Principal Act respectively mentioned in the first column of the said schedule are repealed, and where such intention is expressed in the said schedule, the words contained in the third column thereof shall be deemed to be respectively substituted for the words so repealed.

Amendment of Sections 4 to 11.

5. For sections four to eleven, both inclusive, of the Principal Act, the following sections shall be substituted (namely):—

Constitution of Corporation.

"4. Except during the intervals between the death, resignation, or disqualification of any member, and the election or appointment of a successor, the Corporation shall consist of sixty-four

four members, and shall, by the name of "The Municipal Corporation of the City of Bombay," be a body corporate and have perpetual succession and a common seal, and have power to hold land, and by such name shall sue and be sued.

"Of the said sixty-four members, thirty-two shall be elected, as hereinafter provided, at a Rate-payers' Election, and sixteen at a Justices' Election, and the remaining sixteen shall be appointed by Government.

Who may be elected or appointed members thereof

"5. Subject to the specific disqualifications set forth in Section 8, the following persons shall, if they reside in the City of Bombay, be qualified to be elected or appointed members of the Corporation (namely):—

(*a*) Rate-payers who have attained the age of twenty-five years, and who have been assessed, according to the provisions hereinafter contained, to the consolidated rate, or to the tax leviable under Section 104, on carriages, carts, hackeries, horses, ponies and mules other than carriages, carts, hackeries, ponies and mules plying for hire or kept for the purpose of being let for hire, or to both, for the half-year commencing on the 1st January and ending on 30th June last preceding the date of the election or appointment, at a rate of not less, in the aggregate, than thirty rupees per annum;

(*b*) Fellows of the University of Bombay;

(*c*) Justices of the Peace.

"A person who has already been elected or appointed a member of the Corporation on one or more occasions, shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

"6. There

Fresh General Elections and Appointments of Members of the Corporation to be made every two years.

"6. There shall be fresh general elections and a fresh general appointment by Government of members of the Corporation every two years.

"The first general elections and appointment shall be made to have effect from the 1st January 1879, and the said elections, and appointment, and all subsequent general elections and appointments of members shall be for a term of two years, beginning on the 1st January in one year, and terminating on the 31st December in the next following year, both days inclusive. At the expiration of such term the persons who are then members of the Corporation shall cease to be members thereof, unless they have been re-elected or re-appointed members for the next ensuing term.

General elections and appointments when to take place.

"7. The Rate-payers' general election shall be fixed by Government, by notification in the *Bombay Government Gazette*, to take place on some convenient day in the last four months next preceding the 1st January from which such election is to take effect.

"The Justices' general election shall take place at a general meeting of the Justices of the Peace resident in the City of Bombay to be convened by the Clerk of the Justices of the Peace on some day, of which due notice shall be given by advertisement in one or more of the local newspapers, not less than ten nor more than fifteen days after the Rate-payers' general election shall have taken place.

"And the general appointment by Government of the remaining sixteen members shall be notified not later than seven days before the 1st January,

ary, from which their appointment is to take effect.

Disqualifications of Members.

"8. Notwithstanding anything contained in Section 5, no person shall be qualified to be elected or appointed, or to be a member of the Corporation, during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) is a Municipal Executive Officer, or a clerk or servant of the Corporation, or

(*c*) is the Chief Presidency Magistrate, or acting in that capacity, or

(*d*) has directly or indirectly any share or interest in any contract or employment with, by, or on behalf of the Corporation,

"and any member of the Corporation who during the term for which he has been elected or appointed,

(*e*) becomes disqualified for any of the aforesaid reasons, or

(*f*) is absent for not less than three consecutive months from Bombay, or

(*g*) is sentenced to imprisonment, shall cease to be a member of the said Corporation.

Election or appointment of successors.

"In the event of the death, resignation or disqualification as aforesaid of any member of the said Corporation, a successor shall be forthwith appointed by Government if the member whom he is to succeed was so appointed, and if the said member was elected at a Rate-payers' election or at a Justices' election, the Government, by notification in the *Bombay Government Gazette*, in the former case, and the Clerk of the Justices of the Peace, by advertisement in one or more local newspapers in the latter case, shall fix a convenient day for the election of

of a successor at a Rate-payers' or Justices' election, as the case may be.

"Every such appointment or election shall be for the remainder of the term for which the member whose place is to be filled was appointed or elected, and at the expiration of such term the persons so appointed or elected shall cease to be a member of the Corporation, unless he has been re-elected or re-appointed a member for the next ensuing term of two years.

Names of persons proposed for election to be left with the Municipal Commissioner and published by him.

"9. No vote shall be received at any election of members of the Corporation for any person whose name is not entered in the List then last published under section 9D as qualified to be elected or appointed a member, and who has not been nominated by one person entitled to vote at the said election, and whose nomination has not been seconded by another such person, nor unless such nomination is made in writing, signed by the proposer and seconder, and left at the office of the Municipal Commissioner at least seven days before the date fixed for the election.

"The Municipal Commissioner shall publish a list of the names of the persons in respect of whom such nominations have been duly made, together with the names of the respective proposers and seconders at least three days before the date fixed for the election, in the *Bombay Government Gazette* and in such of the local daily newspapers as he shall deem fit.

Qualifications of Voters.

"9A. The following persons shall, if they reside in the City of Bombay, be qualified to vote at any Rate-payers' election (namely) :—

(*a*) rate-payers who have attained the age of twenty-one years, and who have been assessed, according to the provisions hereinafter contained

ed, to the consolidated rate or to the tax, leviable under Section 104, on carriages, carts, hackeries, horses, ponies and mules, other than carriages, carts, hackeries, horses, ponies and mules plying for hire or kept for the purpose of being let for hire, or to both, for the half-year commencing on the 1st January and ending on the 30th June last preceding the date of the election, at a rate of not less, in the aggregate, than thirty rupees per annum;

(*b*) Fellows of the University of Bombay.

"At any Justices' election every Justice of the Peace resident in the City of Bombay shall be entitled to vote.

Rules to be prescribed by Government for conduct of elections.

"9B. Votes at any Rate-payers' or Justices' election, or at any election by the Corporation, as hereinafter provided, of one or more members of the Town Council, shall be recorded, and the said elections shall be held and the results thereof shall be declared in accordance with such rules as may from time to time be framed by Government in this behalf, the said rules not being inconsistent with this Act:

"Provided that no vote shall be received at any Rate-payers' election unless the name of the person tendering it has been duly entered in the List then last published under section 9D.

Determination of validity of elections.

"9C. If the validity of any election is brought in question by any person qualified to be elected or to vote thereat, such person may at any time within eight days after the election apply to the Chief Presidency Magistrate.

"The said Magistrate may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or for setting such election aside.

"The

"The said Magistrate's order shall be conclusive.

"If he sets aside an election a date shall forthwith be fixed and the necessary steps taken for holding a fresh one by the same authority by whom the date for the election so set aside was fixed.

The Municipal Commissioner to prepare and publish a List of persons qualified to be elected or appointed members, and to vote at Rate-payers' Elections.

"9D. The Municipal Commissioner shall during the first half of each year, commencing on the 1st January and ending on the 30th June, prepare a List of persons qualified to be elected or appointed members of the Corporation, and of persons qualified to vote at Rate-payers' elections.

"The List so prepared shall be published by affixing a printed copy thereof in some conspicuous place in or near the Commissioner's Office, and the Commissioner shall give notice of such publication in, at least, one English, one Marathi, and one Guzerathi local newspaper on or before the 1st July; and the said List shall be open to public inspection at all reasonable times of the day for thirty days after the publication of such notice, and printed copies thereof shall be kept at the Municipal Office for sale to the public at such reasonable price as the Commissioner may determine.

Revision of List.

"The Commissioner may, on application being made to him by any person qualified to be elected or appointed a member of the Corporation, or to vote at a Rate-payers' election, at any time within thirty days after the publication of the notice aforesaid, correct any erroneous entry in the said List or insert any such applicant's name therein when the same has been erroneously omitted therefrom.

"In

"In the event of the Commissioner's refusing any such application, the applicant may, at any time within eight days after such refusal, apply to the Chief Presidency Magistrate, and the said Magistrate may, after such inquiry as he deems necessary, make such order for correcting the List or otherwise as shall seem to him fit.

"The said Magistrate's order shall be conclusive and shall be forthwith obeyed by the Municipal Commissioner.

Chairman of Corporation: his appointment and duties.

"10. At the first Quarterly Meeting of the members of the Corporation in each year, they shall proceed to elect a Chairman, who shall hold office for a year, and shall be eligible for re-election. The Chairman shall preside over all the meetings of the Corporation, and all questions which may come before any meeting of the Corporation for decision shall be decided by a majority of the members of the Corporation present and voting at such meeting, and in all cases of equality of votes the Chairman shall have a second or casting vote. In case of the absence of the Chairman from any meeting, the members present shall choose one of their number to preside, who shall for that meeting have all the powers of the Chairman elected by the Corporation. In case of the death, resignation, or disqualification of the Chairman elected by the Corporation, it shall be lawful for the Town Council to convene a meeting of the Corporation for the purpose of electing a Chairman for the residue of the term for which the Chairman so dead, resigned, or disqualified was originally elected.

Time for holding Quarterly Meetings.

"11. There shall be four Quarterly Meetings of the Corporation in every year, at which the members of the Corporation shall meet for the transaction of general business; and it shall be necessary to give

give notice of the business to be transacted at such meetings. The first Quarterly Meeting of every new Corporation shall be held on some day in the month of January to be fixed by the Commissioner. Subsequent Quarterly Meetings shall be held on the first Tuesday in the months of January, April, July, and October respectively, or so soon after as shall seem expedient to the Chairman of the Corporation. Notice of the business to be transacted at such meetings shall be published at least seven days before each meeting in the *Government Gazette*, and in at least one of the daily English newspapers, and in one daily Guzerathi newspaper, and one Marathi newspaper, published in Bombay."

Members of the Corporation on the day on which this Act comes into force to hold office till 31st December 1878.

6. The members of the Corporation on the day on which this Act comes into force shall, subject to the provisions of section eight of the Principal Act, as amended by section five of this Act, continue to be members thereof until and inclusive of the 31st of December 1878.

No new elections or appointments to be made in the meantime.

Between the date on which this Act comes into force and the said 31st December 1878, no new members of the Corporation shall be elected or appointed, but the persons who are members thereof on the date on which this Act comes into force, or so many of them as shall not by reason of death, resignation, or disqualification cease in the meantime to be members thereof, shall, for such period, be deemed to constitute the Corporation, anything in the Principal Act which requires that the Corporation shall consist of sixty-four members to the contrary notwithstanding.

From and after the 31st December 1878 the said persons shall cease to be members of the Corporation, unless they have been re-elected or re-appointed members thereof for the next ensuing term of two years:

Provided"

Provided that the members of the Town Council on the 31st December 1878 shall continue to hold office, as such, until such time as a new Town Council shall be duly appointed under the provisions of section nineteen of the Principal Act as amended by section nine of this Act.

But Town Council to continue in office till new Town Council is duly appointed.

7. After section twelve of the Principal Act the following section shall be inserted (namely) :—

New section inserted after Section 12 of Bombay Act III. of 1872.

"12A. Any member of the Corporation who desires to bring forward at any Quarterly or Special General Meeting any business or to make any substantive motion not already named in the notice issued under either of the two last preceding sections, shall give notice of the same in writing to the Clerk of the Corporation at least three days before the day fixed for the meeting, and a supplementary announcement of the business or motions of which notice has been so given shall be published by the said Clerk in at least one local daily newspaper the day previous to the meeting."

Notice to be given of motions to be brought forward by Members.

8. For section eighteen of the Principal Act the following section shall be substituted (namely) :—

Amendment of Section 18.

"18. The conduct of business at the meetings of the Corporation shall be regulated by the rules hitherto in force; but the said rules may from time to time be altered by the Corporation, provided that every such alteration shall be reported to Government, within seven days after the same has been approved by the Corporation, and that Government shall have power at any time within two months after the said seven days to disallow the same.

Rules for conduct of business at Corporation's Meeting.

"No such alteration of the rules shall be acted upon until after the expiry of the said period of two

two months, unless the reply of Government, allowing the alteration, is sooner received; and on receipt by the Chairman of the Corporation of notice of the disallowance by Government of any such alteration within the said period, the alteration shall be null and void."

Amendment of Section 19.

9. For section nineteen of the Principal Act the following section shall be substituted (namely):—

Town Council.

"19. For the purpose of securing the due administration of the Municipal Fund, a Town Council shall be appointed consisting of twelve members, of whom one shall be the Chairman, to be selected, as hereinafter provided, from the general body of members of the Corporation."

Amendment of Section 24.

10. For section twenty-four of the Principal Act the following section shall be substituted (namely):—

Meetings of Town Council; payment of Members.

"24. The Town Council shall meet for the despatch of business once at the least in every week, unless at any time the Chairman considers that there is not sufficient business to be transacted to require him to call a meeting. The said meetings shall take place in a room to be provided by the Municipal Commissioner in the Municipal Office, on such days and at such times as may be appointed by the Chairman, and each member of the Town Council, who actually attends, from the beginning to the end thereof, any meeting at which a quorum is present and business is transacted, shall be entitled to receive out of the Municipal Fund a fee of thirty rupees for each such attendance: Provided always that if more than one meeting is held in the course of any week no more than thirty rupees shall be paid to each member of the Town Council for his attendance at all the meetings of the Town Council during that week."

11. In

11. In section twenty-six of the Principal Act the following words shall be inserted after the word "Act" (namely):— Amendment of Section 26.

"and shall have access to all the records of the Corporation."

And the following words shall be inserted in the said section between the words "He shall" and the words "not hold" (namely):—

"also be Clerk to the Corporation but shall."

12. For section twenty-nine of the Principal Act the following section shall be substituted (namely):— Amendment of Section 29.

"29. No payment out of the Municipal Fund shall be made without the sanction of the Town Council, which shall be given in such manner as the said Council deems fit. All such payments which are in excess of one hundred rupees each shall be made by cheques to be signed by the Municipal Commissioner and by one member of the Town Council, who shall attend at the office of the Town Council for this purpose twice a week at least, and by the Secretary to the Town Council. Payments which are not in excess of one hundred rupees each may be made by the Secretary to the Town Council or such other officer as the Town Council may appoint for this purpose, in cash, cheques for sums not in excess of one thousand rupees each and signed as hereinbefore provided being drawn from time to time to cover such payments. It shall be lawful for the said bank to pay all cheques against the said fund which are signed as aforesaid, and not otherwise." How the Fund shall be drawn against.

13. In section thirty of the Principal Act the words "and records" shall be inserted after the word "accounts." Amendment of Section 30.

14. In section thirty-one of the Principal Act the following words shall be inserted after the word "Corporation." Amendment of Section 31.

"Corporation," where it is followed by the words "for the purposes," (namely):—

"but in no case to exceed five thousand rupees in all."

Amendment of Section 36.

15. In section thirty-six of the Principal Act the words "or modify" shall be inserted after the word "reject."

Amendment of Section 43.

16. For section forty-three of the Principal Act the following section shall be substituted (namely):—

Designation and Remuneration of the Commissioner.

"43. The said Commissioner shall be styled "Municipal Commissioner for the City of Bombay." He shall receive such allowances out of the Municipal Fund, to be raised under this Act, as shall from time to time be fixed by the Government: Provided that these allowances shall not be less than rupees two thousand or more than rupees two thousand five hundred a month. He shall not be permitted to hold any other appointment or to follow any other occupation, and shall devote his whole time and attention to the duties of his office. He shall not be eligible to be a member of the Town Council or Corporation, but he shall have the same right of being present at all meetings of the Town Council or Corporation, and of taking part in the discussions thereat as any member of the Town Council or Corporation, but he shall not be at liberty to vote upon or to move any resolution submitted to any such meeting."

The present Executive Engineer and Health Officer to hold their appointments for five years.

17. The Executive Engineer and Executive Officer of Health to the Corporation at the time of the passing of this Act shall continue to hold their offices for a term of five years as if they had been respectively appointed under the provisions of Sections 44 and 45 of the Principal Act as modified by this Act.

18. For

18. For section fifty-three of the Principal Act the following section shall be substituted (namely) :— Amendment of Section 53.

"53. No person shall be qualified to be appointed, or to be Municipal Commissioner or an officer or servant of the Corporation during such time as he shall have, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Corporation; Officers not to be interested in contracts, &c., made with the Corporation.

"and any person who, being the Municipal Commissioner, or an officer or servant of the Corporation, shall acquire, directly or indirectly, any share or interest in any such contract or employment shall cease to be such Commissioner, officer or servant.

"Any person who, being a member of the Town Council or the Municipal Commissioner or an officer or servant of the Corporation, shall acquire, directly or indirectly, any share or interest in any such contract or employment shall be deemed to have committed the offence made punishable by Section 168 of the Indian Penal Code. Penalty for Member of Town Council or Officer of the Corporation being so interested.

"But the disqualification and penalty prescribed by this section and the disqualification prescribed by Section 8, clause (*d*), shall not be deemed to apply by reason only of a person having Exceptions.

(*a*) a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of the Corporation, or

(*b*) a share or interest in any newspaper in which any advertisement relating to the affairs of the Corporation may be inserted."

19. For section fifty-six of the Principal Act the following section shall be substituted (namely) :— Amendment of Section 56.

"56. Before any contract involving an expenditure of two thousand rupees or upwards for the execution Mode of entering into con-

tracts, amounting to Rs. 2,000 or more.

execution of any works directed or authorized by this Act to be done by the Commissioner or for furnishing materials, or for any other things necessary for the purpose of this Act, shall be entered into by the Commissioner, seven days' notice at the least shall be given in at least one of the daily English newspapers and in two of the Vernacular newspapers circulating in Bombay, expressing the purpose of such contract and inviting any persons willing to undertake the same to make proposals for that purpose to the Commissioner, and the Commissioner may accept the proposal which, upon a view of all the circumstances, shall appear to him to be the most advantageous, and shall, if he accept them, take a deposit or security for the due and faithful performance of every such contract: provided that, in the case of any contract involving a greater expenditure than five thousand rupees, such proposals shall not be accepted without the previous consent of the Town Council.

"But it shall be lawful for the Town Council, if in any case it shall deem fit, on recording its reasons for the same, to authorize the Municipal Commissioner to enter into any such contract as aforesaid without previously giving notice, and inviting tenders as herein provided, or without accepting any tender which he may receive after such notice has been given."

Amendment of Section 67.

20. For section sixty-seven of the Principal Act the following section shall be substituted (namely):—

Rates and taxes to be fixed at the Special General Meeting in November in each year.

"67. At the Special General Meeting to be held in accordance with Section 35 of this Act or at any adjournment thereof, the Corporation shall fix the rates at which the rates, taxes, tolls and duties leviable under this Act shall be levied for the year commencing on the first day of January

ary next ensuing. The rates shall be fixed before the tenth day of December in each year and shall not be altered before the next succeeding month of November."

Amendment of Heading prefixed to Section 69.

21. For the heading "*House-rate*" prefixed to section sixty-nine of the Principal Act the following heading shall be substituted (namely):—

"*Property-Rates.*"

Amendment of Section 69.

22. For section sixty-nine of the Principal Act the following section shall be substituted (namely):—

Property-rates to be levied on annual value of houses, buildings and lands.

"69. The following annual rates shall be levied upon houses, buildings and lands in the said City and shall be called "Property-rates" (namely):—

Consolidated rate.

(1). A consolidated rate of not less than eight per centum nor more than twelve per centum of their annual value,

(*a*) for the general purposes of this Act, and

(*b*) for the expenses of the Police of the City and of the maintenance of a Fire Brigade and other expenses in connection with the protection of the City from fire, and

(*c*) towards providing for the expense of lighting the public streets with gas, or by other suitable means;

Water-rate.

(2) a water-rate of so many per centum of their annual value as may appear to the Corporation, after consideration of the estimates of the Commissioner, sufficient to provide for the maintenance, repairs, extension, improvement and other expenses connected with the Vehar Water Works as hereinafter provided, or for any other Water Works hereafter constructed with the consent

consent of Government, and as may be sanctioned by Government;

Halalcore-rate.

(3) whenever the Commissioner shall have given notice, by advertisement or otherwise, to the owner of any house, building, or land, or to the owners generally in any ward or district into which the City is or may be divided, that he will on and from a day to be named in such notice perform through his agents the duties usually performed by halalcores, an halalcore-rate of so many per centum, not exceeding three of their annual value, as may appear to the Corporation, after consideration of the estimates of the Commissioner, likely approximately to cover the expenses incident to the performance of such duties:

Provided:

Proviso.

(1) that the said water-rate and the said halalcore-rate shall be respectively charged only in respect of property into which water is actually conducted and supplied, or in which the Commissioner has given notice of his intention to have the duties of halalcores performed by his agents;

(2) that for the purposes of the said water-rate the words "houses, buildings and land" shall be deemed to include all wharves and other structures and all works and places whatsoever into which water shall be conducted and supplied;

(3) that not more than seven rupees nor less than four annas per mensem shall be leviable on account of the said halalcore-rate in respect of any one house or building or of any one separate holding of land."

New sections inserted after Section 69.

23. After section sixty-nine of the Principal Act the following section shall be inserted (namely):—

"69A. Each

"69A. *Each of the said property-rates shall be payable in advance in half-yearly instalments;* that is to say, the first instalment for the year shall be due and leviable on the 1st of January and the second instalment on the 1st of July of each year.

Property-rates how leviable.

"All the amounts due for each half-year on account of any of the said rates by one and the same person on account of one and the same property shall be charged to such person in one bill, and shall be recoverable from him in the lump."

24. After section seventy of the Principal Act the following section shall be inserted (namely) :—

New section to be inserted after Section 70.

"70A. The said rates shall be leviable from the actual occupier of the house, building or land upon which they are assessed if the said occupier be himself the landlord of such house, building or land, or if he hold the same immediately from Government. In any other case the said rates shall be leviable from the immediate landlord of the actual occupier, or, when the property is unoccupied, from the person who would be the immediate landlord of the occupier if it were occupied :

Property-rates from whom leviable.

"Provided that if any person hereby made liable to the said rates himself pays rent to another person other than Government in respect of his interest in the house, building or land for which he is assessed to such rates, he shall be entitled to credit in account with such other person for such sum as would be leviable on account of the said rates if the amount of the rent payable by him were the full annual value of the property taxed.

Person liable to payment of Property-rates entitled to credit or proportionate amount of such rates, if he himself pays rent to another person.

"And

Credit to be allowed by all superior holders for proportionate amount of Property-rates on the rents receivable by them.

"And any person other than Government, possessing any interest in or over any such property superior to that of the person assessed to the said rates, in respect of which he receives rent from any other person, shall be bound to give credit in account to such other person for such sum as would be leviable on account of the said rates if the rent which he receives were the full annual value of the property

Saving of express contracts.

"But nothing in this section shall be deemed to affect any agreement into which persons interested in any such property have entered, or may hereafter enter, concerning their respective liability on account of the aforesaid rates, and when any person other than the person hereby made liable for the said rates has by any such agreement rendered himself responsible for the same, or for any portion thereof, the person hereby made liable shall be entitled to recover the amount of the said rates or such portion thereof from the said person. For this purpose the portion of the consolidated rate levied for lighting shall be deemed to be two per centum, and for the police two per centum of the annual value of the property assessed; but if at any time the said consolidated rate is increased on account of the expenses of lighting or of the police, the amount of such increase may be added to the said two per centum on account of lighting or police respectively."

Amendment of Section 73.

25. For section seventy-three of the Principal Act the following section shall be substituted (namely):—

Person liable to payment of rates how to be designated if his

"73. When the name of the person liable to payment of the rates aforesaid cannot be ascertained, it shall be sufficient to designate him in the Assessment Book and also in any notice or other proceeding under this Act as 'the land

lord

lord' or 'the occupier' of the property on which the rates are assessed without further description.

name cannot be ascertained.

"When in any such case any person in occupation of any house, building or land shall refuse to give such information as may be necessary for determining who is liable to payment of the said rates, such person shall himself be liable, until such information is obtained, for all the said rates leviable on such house, building, or land."

Liability of occupier if he fails to give information.

26. For clause two of section seventy-six of the Principal Act the following clause shall be substituted (namely):—

Amendment of Section 76, Clause 2.

"*Clause 2nd.*—In the case of any chawl or building let out for hire in single rooms, either as lodgings or godowns for the storage of goods, the said rates shall be levied on the annual value of each floor, and the landlord of any such chawl or building shall, if he apply to the Commissioner for such remission on account of the half-year then commencing at any time within fourteen days after the first day of January or the first day of July, and furnish full particulars of the situation of such chawl or building and of the number of the rooms and godowns therein, be entitled to a remission of one-fifth part of the consolidated rate leviable thereon under the provisions of section sixty-nine of this Act: Provided that no landlord of any chawl or building shall be entitled to such remission for any floor on which any trade or manufacture is carried on or any goods sold."

Provisions as to lodgings or godowns.

27. For section eighty-two of the Principal Act the following section shall be substituted (namely):—

Amendment of Section 82.

"82. *Clause* 1.—When any house, building, or land, or any portion of a house let as a separate tenement, or for lodgings or godowns, as described

Refund on account of vacancies.

described in section seventy-six of this Act, shall have been vacant for sixty consecutive days, the Commissioner shall refund two-thirds of the amount of consolidated rate leviable under section sixty-nine of this Act for the number of days the said house, building, or land, or portion of a house may have remained unoccupied; and if such house, building, or land, or portion of a house, shall have been vacant for thirty consecutive days the Commissioner shall refund the amount of the water-rate and halal-core-rate, for the number of days the said house, building, or land, or portion of a house, may have remained unoccupied: Provided that the person liable to the payment of the said rates or his agent shall have given notice in writing of the vacancy to the Commissioner, and that the amount of rate to be refunded shall be calculated from the date of the delivery of such notice, and, in the case of the water-rate, that no water shall have been used in the house, building, land, or portion of a house, during the time the same remained unoccupied: and provided further that no refund of consolidated rate shall be admissible in any case in which a remission has already been allowed under clause 2 of the said section seventy-six.

Claims for refund must be made within 30 days.

"*Clause* 2.—All applications for refunds falling due in any half-year shall be made within thirty days after the expiration of such half-year, in default whereof the claim to refund may be disallowed.

Continued vacancy.

"*Clause* 3.—In the event of continued vacancy at the commencement of any half-year, the owner shall give notice in writing of the same to the Commissioner within fifteen days after the commencement of the half-year. In default of such notice, his claim to refund on account of such continued vacancy shall be forfeited."

28. In

28. In section eighty-three of the Principal Act the following words shall be inserted after the word "value" (namely):— Amendment of Section 83.

"or when any house or building which has been vacant is re-occupied;"

and the following words shall be inserted in the said section after the word "first" (namely):—

"or in the case of any house or building which has been vacant, from the date of the re-occupation thereof."

29. For section eighty-four of the Principal Act the following section shall be substituted (namely):— Amendment of Section 84.

"84. When any house or building is demolished, or removed, otherwise than by order of the Municipal Commissioner, the person liable for the payment of the aforesaid rates in respect of such house or building shall give notice thereof in writing to the said Commissioner within fifteen days from the date of completion of such demolition or removal; until such notice is given, the said person shall continue to be liable to the payment of all rates which would have been leviable had such house or building not been demolished or removed." Notice to be given of demolition or removal of house.

30. To section eighty-five of the Principal Act the following clause shall be added (namely):— Addition to Section 85.

"Whenever a new Assessment Book is prepared, the Municipal Commissioner shall cause copies of the same to be printed and kept at the Municipal Office for sale to the public at such reasonable price as he shall deem fit."

31 For section eighty-six of the Principal Act the following section shall be substituted (namely):— Amendment of Section 86.

"86. It

In certain cases halalcore-rate may be fixed with reference to duties performed.

"86. It shall be lawful for the Commissioner, with the consent of the Town Council, to fix the amount of halalcore-rate to be levied in respect of any hotel, club, or other large building or premises, with reference to the extent of the duties to be performed, instead of at so many per centum of the annual value of the property. In any such case the limits prescribed by proviso (3) to section sixty-nine of this Act shall not apply to the amount of rate so leviable."

Amendment of Section 95.

32. For section ninety-five of the Principal Act the following section shall be substituted (namely):—

Water and halalcore rates to be recoverable from occupiers.

"95. Any person who has paid to the Corporation any halalcore-rate or any water-rate other than a rate determined under section ninety of this Act, in respect of any house, building or land shall, if he was not himself in occupation of such house, building, or land during the period for which such payment has been made, be entitled to recover the same from the person, if any, actually in occupation of such house, building, or land for the said period.

Saving of express contracts.

"Provided that nothing in this section shall be deemed to affect the relative rights of parties who have entered or may hereafter enter into any agreement as to their respective liabilities on account of the said rates, so long as such agreement continues in force."

Amendment of Section 104.

33. For section one hundred and four of the Principal Act the following section shall be substituted (namely):—

Tax on carriages, &c.

"104. A tax shall be levied on all carriages, carts, hackeries, horses, ponies and mules kept within the said City, and upon all carts and hackeries plying for hire within the said City, or let for hire and used within the said City, and kept

kept at any place beyond the limits thereof, at the rates specified in Schedule A, and shall be payable quarterly by the owners, or persons having charge of the same, except as hereinafter otherwise provided: Provided that the Corporation may reduce, alter or modify this tax, as they may deem fit, but may not increase the rates specified in the said Schedule, and provided that this section shall not apply to or include gun carriages, ordnance carts, or wagons, artillery and cavalry horses, or horses certified by the Commissioner or the Commissioner of Police to be employed by their owners for municipal or police purposes, or the respectively authorized number of horses belonging to officers doing regimental or other military duty at the Presidency, or vehicles, horses, ponies, or mules belonging to the Government or to the Corporation, or vehicles kept for sale, and not used for any other purpose, if kept by *bonâ fide* dealers in such vehicles: Provided also that public conveyances liable to the payment of a license fee under (Bombay) Act VI. of 1863 shall be required to pay in half-yearly instalments in advance the tax leviable under this section, the first instalment being payable at the same time as the said license fee." Proviso.

34. To section one hundred and fourteen of the Principal Act the following proviso shall be added (namely):— Addition to Section 114.

"Provided that no such duty shall be leviable upon any article imported by, or on behalf of, Government or by any contractor or other person for the *bonâ fide* purpose of fulfilling any contract with Government, when such article is covered by a certificate from any Government officer duly empowered by Government to issue such certificates, certifying that it is for any of the above reasons exempt from such duty." Proviso.

35. To

Addition to Section 117.

35. To section one hundred and seventeen of the Principal Act the following clause shall be added (namely):—

Punishment of offenders.

"And the law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea customs and for the reward of informers shall, as far as may be, apply to similar offences committed in respect of the said town duties."

Amendment of Section 118.

36. For section one hundred and eighteen of the Principal Act the following section shall be substituted (namely):—

Moneys where to be paid.

"118. All moneys collected or recovered on account of the Town Duties under this Act and the proceeds of all confiscations adjudged under the last preceding section shall from time to time be paid into the Bank which is now or may hereafter be appointed to conduct the business of Her Majesty's Treasury in Bombay, and shall be carried to the credit of the Municipal Fund."

Amendment of Section 120.

37. In section one hundred and twenty of the Principal Act the following words shall be inserted after the words "Town Council" (namely):—

"and of Government;"

and the following words shall be inserted in the said section after the words "six months" (namely):—

"or in the case of timber twelve months;"

Amendment of Section 134.

38. For section one hundred and thirty-four of the Principal Act the following section shall be substituted (namely):—

Property-rates may be recovered from occupier, although he

"134. If the sum due on account of any property-rate remains unpaid after the bill for the same has been duly presented to the person liable to pay the same, and the said person be not the occupier for the time being of the house, building;

ing, or land in respect of which such rate is due, the Commissioner may demand the amount from the occupier, and on non-payment thereof may recover the same by distress and sale of any goods and chattels found on the premises.

be not the person liable for them, under certain circumstances.

"In any such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him:

"Provided always that no arrear of rate shall be recovered from any such occupier which has remained due for more than one year, or which is due in respect of any term for which he has not been in occupation."

Addition to Section 137.

39. To section one hundred and thirty-seven of the Principal Act the following paragraphs shall be added (namely):—

Contributions towards public festivities, &c.

"The Corporation is also hereby expressly authorized with the previous sanction of Government to contribute from time to time from the Municipal Fund such sums as it may deem fit, towards public festivities and rejoicings, or for the purpose of entertaining, or presenting addresses to, distinguished visitors to the city.

Payment of pensions, &c.

"The payment of pensions or compassionate allowances to retired or discharged officers or servants of the Corporation, at such rates, or subject to such rules, as may, from time to time, be sanctioned by the Corporation, shall also be deemed to be a purpose expressly authorized by this Act."

Addition to Section 138.

40. To section one hundred and thirty-eight of the Principal Act the following paragraph shall be added (namely):—

Annual expenses of Police, &c.,

"The annual expenses of the Police of the City of Bombay, and of the protection of the City from fire,

to be determined by Government.

fire, shall be from time to time determined by Government, and the amounts so determined, or, in the case of the Police, any portion thereof, shall, on the requirement of Government, be paid out of the Municipal Fund."

Addition to Section 149.

41. To section one hundred and forty-nine of the Principal Act the following paragraph shall be added (namely):—

When the making of such connection may be compulsory.

"But it shall be lawful for the Commissioner, on the advice of the Executive Officer of Health, to require the owner of any chawl or house ordinarily in the occupation of tenants, and situate within one hundred feet of a public watermain to make a connection therewith adequate to the supply of a sufficient amount of water for the requirements of such chawl or house, and of the persons ordinarily occupying the same, or in default to levy water-rate from such owner in respect of such house or other property as if such connection had been made on his application."

Amendment of Section 151.

42. For section one hundred and fifty-one of the Principal Act the following section shall be substituted (namely):—

The Commissioner may set apart bathing places, &c.

"151. The Commissioner may set apart sufficient public places or any part of the sea-shore (not being private property) for the purpose of being used as bathing places, or for the washing or drying of clothes; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in, and may also set apart tanks or reservoirs or runs of water for washing animals or clothes and drying clothes, and for all purposes connected with the health, cleanliness, and comfort of the inhabitants."

43. For

43. For section one hundred and fifty-three of the Principal Act the following section shall be substituted (namely):— Amendment of Section 153.

"153. Whoever, except as permitted by the Commissioner, under Section 151 of this Act, bathes in any stream, tank or reservoir, well, cistern, conduit, or aqueduct belonging to the Corporation, or washes, or causes to be washed therein, any animal or any thing whatever, or throws, puts, or casts or causes to enter therein any animal, or anything, or causes or suffers to run, drain or be brought thereinto, anything that is, or may be, a nuisance, or does anything whatsoever whereby any such water shall be in any degree fouled or corrupted, or shall wash or dry clothes in any public place or on any part of the sea-shore not set apart under the said section for the said purpose, or whoever shall steep in any tank or ditch within Municipal limits any animal, vegetable, or mineral matter likely to render the water of such tank or ditch offensive or nuisance, shall be liable, on conviction before a Magistrate, to the penalty provided for fouling the water of any public spring or reservoir by Section 277 of the Indian Penal Code." Fouling water by bathing, washing, throwing rubbish, &c. Allowing drains, &c., to run into.

44. For section one hundred and sixty-five of the Principal Act the following section shall be substituted (namely):— Amendment of Section 165.

"165. Before beginning to build, or rebuild, or to make any alteration to a house involving the removal or re-erection entirely, or in greater part, of any of the main walls of the same, the person intending so to build, rebuild, or alter such house shall give to the Commissioner notice thereof in writing, stating where such building is intended to be erected, or to what extent the same is to be rebuilt or altered, and shall, if required so to do by the Commissioner, furnish Notice to be given to the Commissioner of new buildings, &c.

him

him with a plan showing the levels at which the foundation and lowest floor of such house are proposed to be laid by reference to some level ascertained under the direction of the Commissioner, and the intended situation and construction of the privies to be used in connection with such house, and a statement, in writing, showing the means of draining the building and land, the proposed means of ventilation, the height of the building, the number and height of the floors, the materials to be used, and the thickness of the walls and roof."

Amendment of Section 166.

45. For section one hundred and sixty-six of the Principal Act the following section shall be substituted (namely):—

Procedure on receipt of such notice.

"166. If within thirty days from delivery at the office of the Municipal Commissioner of the notice required by the preceding section the Commissioner shall not signify his disapproval of the proposed building, or rebuilding, or alteration, or shall not require a plan and statement as aforesaid or further particulars as to any proposed rebuilding, the person may proceed with the building or rebuilding or alteration of his house. If the Commissioner shall require a plan and statement as aforesaid, the Commissioner may, within thirty days after receiving the plan and statement as aforesaid, signify his disapproval of the proposed levels or privies or any other matters required to be mentioned in the statements referred to in the last preceding section, and may fix other levels and privies in lieu thereof, and may require the ventilation, drainage, height of floors, materials and thickness of the walls and roof to be altered in accordance with any bye-law made under the provisions of this Act, and he may require the said house to be set back or forward for the improvement of the street as he may think fit. If the Commissioner shall require further particulars

culars as to any rebuilding, the same shall be furnished by the person intending to rebuild before the rebuilding is proceeded with."

Amendment of Section 167.

46. For section one hundred and sixty-seven of the Principal Act the following section shall be substituted (namely) :—

Houses built, &c., without notice or contrary to provisions of this Act may be altered by Commissioner.

"167 If the building or rebuilding of any house, or any such alteration of the same as is aforesaid, be begun, or made without sending such notice, or without furnishing the Commissioner, if required, with a plan and statement as aforesaid, or otherwise than in conformity with the provisions of this Act and the requirements of the Commissioner as aforesaid, the Commissioner may, with the consent of the Town Council, cause such building to be altered or demolished as the case may require, and the expense thereby incurred shall be paid by the person failing to comply with the provisions aforesaid, and shall be recoverable as hereinafter provided.

Liability to penalty.

"If the Town Council does not consider it necessary to alter or demolish the building, the person failing to comply with the provisions aforesaid shall be liable to a penalty not exceeding one thousand rupees, and, if the Commissioner shall have required a plan and statement or further particulars as aforesaid, to an additional daily penalty not exceeding fifty rupees until such plan and statement or such further particulars be furnished.

"In any case in which any building is altered or demolished under this section, the Commissioner may, with the consent of the Town Council, require the said building to be set back in accordance with the provisions of Section 163 before the same is altered or rebuilt."

47. For

Amendment of Section 168.

47. For section one hundred and sixty-eight of the Principal Act the following section shall be substituted (namely) :—

Parties may proceed with their buildings on failure of Commissioner to signify his disapproval.

"168. If the Commissioner fail to signify in writing his approval or disapproval of the levels and particulars mentioned in Section 165, and to fix other levels and give other directions within thirty days after receiving such statement and plan or particulars as aforesaid, the person giving such statement and plan or particulars may, notwithstanding anything hereinafter contained, proceed to build, rebuild or alter the house therein referred to according to the levels and particulars furnished by him : Provided that such building be otherwise in accordance with the provisions of this Act."

Amendment of Section 185.

48. In section one hundred and eighty-five of the Principal Act the following words shall be inserted after the word "clean" (namely) :—

"or remove any encroachment from."

Amendment of Section 186.

49. For section one hundred and eighty-six of the Principal Act the following section shall be substituted (namely) :—

Inspection of drains and privies.

"186. The Commissioner or any officer appointed by him in this behalf may inspect any drain, cesspool, house-gully, or privy, and may for that purpose, at any reasonable time, without giving previous notice, enter upon any house or land with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be; and if, upon such inspection, it appears that the drain, cesspool, house-gully, or privy is not in good order and condition, or that it has been constructed contrary to the provisions of this Act, the expenses of such inspection and of any alteration that the Commissioner may deem necessary under the provisions of this Act, shall be paid by the person to whom such drain, cesspool,

pool, house-gully, or privy may belong, and shall be recoverable as hereinafter provided; but, if the drain, cess-pool, house-gully, or privy be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Act, the Commissioner or officer aforesaid shall cause the ground to be closed and made good as soon as may be, and the expense of opening, closing, and making good such drain, cess-pool, house-gully, or privy, shall in that case be defrayed by the Commissioner from the Municipal Fund: Provided that the Commissioner or his said officer shall not, without the consent of the occupier thereof, enter into any apartment used as a dwelling-place without previously giving the said occupier twenty-four hours' notice in writing of his intention so to do."

Addition to Section 188.

50. To section one hundred and eighty-eight of the Principal Act the following clause shall be added (namely):—

Drains, &c., constructed for private use to be maintained and cleaned by the owner or occupier and, if he fails to do so, by the Municipal Commissioner.

"*Clause* 2.—All drains, tunnel, culverts, gutters, and water-courses in, alongside, or under any street which have been or may be constructed, whether at the cost of the Corporation or otherwise, or which are continued only for the use of any house or land adjoining or near such street, shall be maintained, and from time to time repaired, cleared, cleansed, and emptied by the owner or occupier of such house or land; and in the event of such owner's or occupier's failing to maintain, or when necessary to repair, clear, cleanse, or empty the same, the Commissioner may, by written notice, require him so to do within such reasonable period as he may deem fit, and if such notice is not obeyed, may himself cause the necessary work to be done at the cost of the said owner or occupier, and such cost shall be recovered as hereinafter provided."

51. For

Amendment of Section 191.

51. For section one hundred and ninety-one of the Principal Act the following section shall be substituted (namely) :—

Buildings, &c., not to be erected over sewers, &c., without the consent of the Commissioner.

"191. No building shall be newly erected, nor any road or railway constructed over any sewer, drain, culvert, gutter, water-course, waterpipe, or gas-pipe vested in the Corporation without the written consent of the Commissioner; and if any building be so erected, or any road or railway so constructed, the Commissioner may cause the same to be removed or otherwise dealt with as he may think fit, and the expenses thereby incurred shall be paid by the person offending, and be recoverable as hereinafter provided, and the person offending shall, whether such building, road, or railway be removed or dealt with as aforesaid or not, be liable to a penalty not exceeding rupees one hundred, and to a further penalty not exceeding rupees ten for every day after conviction during which the offence is continued."

Addition to Section 205.

52. To section two hundred and five of the Principal Act the following clause shall be added (namely):—

And may require other persons who injure, the same to make new ones.

"The Commissioner may also require any person who, in the execution of any work of his own, interrupts, injures, or renders useless any water-course, drain, or channel to provide and make new ones to the satisfaction of the said Commissioner within such reasonable period after notice as the Commissioner may fix; and in default it shall be lawful for the Commissioner to cause such water-course, drain, or channel as he may deem necessary to be constructed, and to recover the expense incurred thereby from the said person in the manner hereinafter provided."

53. In

53. In section two hundred and eight of the Principal Act the following words shall be inserted after the word "aqueduct" (namely) :— Amendment of Section 208.

"or well or tank open to public use;"

and the following words shall be inserted in the said section between the words "projection aforesaid" and the words "shall be liable" (namely) :—

"or having complied with such notice, shall again commit the same offence."

54. After section two hundred and twelve of the Principal Act the following heading and sections shall be inserted (namely) :— New section to be inserted after Section 212.

"*Extinction of Fires.*

"212A. On the occasion of a fire the chief or other officer in charge of the Fire Brigade may take the command of all officers of the Corporation present and of any other persons who voluntarily place their services at his disposal, and may Powers of Chief Officer of Fire Brigade at a fire.

(1) remove, or order any foreman, or other officer or person under his command to remove any persons who interfere by their presence with the operations of the Fire Brigade; and

(2) take generally any measures that appear expedient for the protection of life and property, with power by himself or by the persons under his command to break into or through, or take possession of, or pull down any premises for the purpose of putting an end to such fire, doing as little damage as possible; and

(3) cause the water to be shut off from the mains and pipes of any district in order to give a greater supply and pressure of water in the district in which the fire has occurred, and utilize the water of any well, or tank, available for the purpose of extinguishing such fire.

"212B. All

Police and Municipal Officers to aid the Fire Brigade.

"212B. All police officers and all municipal executive officers shall be authorized to aid the Fire Brigade in the execution of their duties. They may close any street in or near which a fire is burning, and remove any persons who interfere by their presence with the operations of the Fire Brigade.

Damages done by Fire Brigade to be deemed damage by fire.

"212C. Any damage occasioned by the Fire Brigade in the due execution of their duties or by any police or municipal officer who aids the Fire Brigade, shall be deemed to be damage by fire within the meaning of any policy of insurance against fire."

Amendment of Section 213.

55. In section two hundred and thirteen of the Principal Act the words "or places" shall be inserted after the word "receptacles" wherever it occurs.

Amendment of Section 217.

56. In section two hundred and seventeen of the Principal Act the words "without such consent as aforesaid" shall be inserted after the word "night-soil."

Amendment of Section 225.

57. In section two hundred and twenty-five of the Principal Act the words "or other articles" shall be inserted after the word "skins."

New sections inserted after Section 245.

58. After section two hundred and forty-five of the Principal Act the following heading and sections shall be inserted (namely):—

"*Prevention of Infectious Diseases.*"

Information to be given of existence of dangerous infectious disease.

"245A. Every medical practitioner who treats or becomes cognizant of the existence of any epidemic, endemic, or dangerous infectious disease in any private or public dwelling in the City of Bombay other than a public hospital, shall be bound to give information of the same to the Health Officer with the least practicable delay. The said information shall be communicated in such form and with such details as the Health Officer, with the consent of the Municipal Commissioner, from time to time requires.

"245B. The

"245B. The Municipal Commissioner, or any officer duly appointed by him in writing in this behalf, shall have power of entry at any time in any dwelling-place in which any epidemic, endemic, or dangerous infectious disease is reputed or suspected to exist, for the purpose of preventing the spread of the same.

Municipal Commissioner to have power of entry for purpose of preventing spread of disease.

"245C. The Municipal Commissioner, with the consent of the Town Council, may provide and maintain a suitable carriage or carriages for the free conveyance of persons suffering from any dangerous infectious disease; and when such carriage or carriages has or have been provided, it shall not be lawful to convey any such person by any public conveyance.

Provision of carriages for conveyance of patients.

"245D. When a hospital or place for the reception of persons suffering from any dangerous infectious disease is provided within the limits of the City of Bombay, the Municipal Commissioner may, on a certificate signed by the Health Officer or other medical practitioner, direct the removal to such hospital or place of any person suffering from a dangerous infectious disease who is, in the opinion of such Health Officer or other medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family.

Commissioner may order removal of patients to hospital.

"245E. If upon the certificate of the Health Officer the Municipal Commissioner is of opinion that the cleansing or disinfecting of a house or other building, or of a part of a house or other building, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice in writing, require the owner or occupier to cleanse or disinfect the same, and if such owner or occupier fails within the time specified in such notice to comply with the same, he shall be liable to a penalty of not less than

Disinfection of houses, &c.

Rs.

Rs. 5, and not exceeding Rs. 10, for every day of continuing default; and the Municipal Commissioner shall cause the house, or part of the house, or article, to be cleansed or disinfected, and shall recover the expenses from the owner or occupier in the manner hereinafter provided: Provided always, that when, in the opinion of the Municipal Commissioner, the owner or occupier is from poverty or otherwise unable effectually to carry out the said requirements, the Municipal Commissioner may cleanse or disinfect the house or building or part of the same, and any articles therein likely to retain infection at the expense of the Municipal Fund.

Place for disinfection may be provided;

"245F. It shall be lawful for the Municipal Commissioner, with the consent of the Town Council, to provide a proper place or places, with all necessary apparatus and attendance, for the disinfection of clothing, bedding, or other articles which have become infected, and in his discretion to cause articles brought for disinfection to be disinfected free of charge.

Also places for washing.

"It shall be lawful for the Municipal Commissioner from time to time to notify places at which articles of clothing or bedding, or other articles which have been exposed to infection from any dangerous infectious disease may be washed; and any person washing such articles without previous disinfection at places other than those notified by the Municipal Commissioner shall be liable to a penalty not exceeding Rs. 100.

Infected articles may be destroyed.

"The Municipal Commissioner may, on the recommendation of the Health Officer, direct the destruction of bedding, clothing, or other articles likely to retain infection, and may, in his discretion, give compensation for the articles destroyed.

Penalty for exposure of infected persons or things.

"245G. Any person suffering from a dangerous infectious disease who, without proper precaution against spreading such disease, causes or suffers himself

himself to be conveyed in a public conveyance or who causes or suffers himself to be conveyed in a public conveyance contrary to the provisions of Section 245c; and any person in charge of or accompanying a patient so conveyed; and

"any owner or driver of a public conveyance who knowingly conveys or permits any such patient to be conveyed contrary to the provisions of Section 245c in a public conveyance, or does not immediately provide for the disinfection of such conveyance after it has, with his knowledge, conveyed any such patient; and

"any person who, without previous disinfection of the same, gives, lends, sells, transmits, or otherwise disposes of any article or thing which he has reason to know has been exposed to infection, shall be liable to a penalty not exceeding fifty rupees:

"Provided that nothing in this section shall be deemed to apply to a person who transmits with proper precautions any article or thing for the purpose of having the same disinfected.

Penalty if patient enters a public conveyance without notifying that he is suffering from infectious disease.

"245H. Any person suffering from any dangerous infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering, shall be liable to a penalty not exceeding fifty rupees, and to an additional fine of such amount as the Magistrate shall deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance.

"The amount of any additional fine so imposed shall be awarded by the Magistrate, subject to the provisions of Section 186 of the Presidency Magistrates Act, 1877, to the owner or driver of the said conveyance.

"No owner or driver of a public conveyance shall be required to convey any person suffering as aforesaid

aforesaid without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any Act relating to public conveyances for the time being in force to the contrary notwithstanding."

Penalty for letting infected rooms, &c.

"245I. Any person knowingly letting a house or other building or part of a house or building, in which any person has been suffering from a dangerous infectious disease, without having such house or other building or part thereof and all articles therein liable to retain infection disinfected to the satisfaction of the Health Officer or of a medical practitioner, as testified by such officer's or medical practitioner's certificate, shall be liable to a penalty not exceeding two hundred rupees.

"For the purpose of this section an innkeeper shall be deemed to let part of his house to any person admitted as a guest into the inn."

New section inserted after Section 249.

59. After section two hundred and forty-nine of the said Act the following section shall be added (namely) :—

Prohibited burial places may be re-opened.

"249A. If upon the certificate of the Health Officer and after personal inspection the Commissioner shall be satisfied that any place formerly used for the disposal of the dead which has been closed under the provisions of the last preceding section has by lapse of time become no longer dangerous to health and may without danger be again used for the said purpose, he shall report his opinion to the Town Council.

"It shall thereupon be lawful for the Commissioner, with the concurrence of the Town Council, to forward to Government a certificate to the above effect, upon receipt of which the Governor in Council may, after such further inquiry, if any, as he shall deem fit to cause to be made, issue an order for the re-opening of the said place for the purpose aforesaid."

60. For

60. For section two hundred and seventy-one of the Principal Act the following section shall be substituted (namely) :— Amendment of Section 271.

"271. For one month at least previous to any such application for confirmation by the Corporation of any bye-law, a printed copy of the proposed bye-law shall be kept at the principal office of the Commissioner, and all persons may at all reasonable times inspect such copy without fee or reward, and the Commissioner shall furnish every person who applies for the same with a copy thereof on payment of one rupee." Copy of proposed bye-laws to be kept for inspection at the Commissioner's office for one month before application for such confirmation.

61. In section two hundred and seventy-two of the Principal Act the following words shall be inserted after the words "each copy" (namely) :— Amendment of Section 272.

"and the fact of such bye-laws being obtainable at the said price on application to the said officer, and the said officer's name, and the place where such copies are to be obtained, shall be made known by the Commissioner from time to time by advertisement in such of the local newspapers as he shall deem fit."

62. To section two hundred and ninety-one of the Principal Act the following proviso shall be added (namely) :— Addition to Section 291.

"Provided that it shall be lawful for the Commissioner, anything contained in this section or in the last two preceding sections to the contrary notwithstanding, to levy any expenses incurred by him under the provisions of Section 280 as if the same were an arrear of any rate due under this Act; but if the amount of such expenses or the right to levy the same is disputed, the Commissioner shall defer proceedings for the recovery of the said expenses pending a reference of the case to the determination of a Presidency Magistrate, and after such determination Proviso.

nation shall proceed to recover only such amount, if any, as may be allowed in the said determination."

Amendment of Schedule B.

63. For Schedule B of the Principal Act the following Schedule shall be substituted :—

SCHEDULE B.

		Rates.		
		Rs.	a.	p.
Grain of all sorts	Per Candy	0	4	0
Wines and Spirits	„ Gallon	0	4	0
Beer	„ Gallon	0	0	6
Sugar, including Molasses and Goor 1½ per cent. on tariff value.				
Ghee	Per Bombay Maund	0	10	0
Timber, excluding Railway Sleepers 2½ per cent. on market value.				
Firewood	Per Candy	0	2	0

SCHEDULE.

(*See Section* 4.)

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
2, Designation of "Magistrate."	Magistrate of Police, &c., to the end of the definition.	"Presidency Magistrate."
2, definition of the expression "near any street."	"one hundred" ...	"two hundred."
13 ...	"or transacted at any meeting other than the business specified in the notices given under the two."	"nor shall any substantive motion be made at any meeting other than the business or motions specified in the notices or supplementary announcement published under the three last."
14 ...	"thirty"	"twenty-five"

14

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
14 ...	"to such convenient time and place"	"to some other day, fixing such convenient time and place for the same."
20 ...	"the Corporation at their first meeting in the month of January in each alternate year."	"Each New Corporation at their first Quarterly Meeting."
21 ...	"for two years provided they shall so long continue to be members of the said Corporation, and shall be eligible for re-appointment in the same manner as is provided by Section 8 of this Act with regard to members of the said Corporation."	"until such time as a new Council is appointed under the provisions of the last proceding section, unless they in the meantime cease to be members of the Corporation otherwise than by reason of the expiration of the term of two years for which they were elected or appointed members of the same; but if otherwise duly qualified, they shall be eligible for re-appointment to the Town Council."
31 ...	"month to month" ...	"week to week."
35 ...	"and a half" ...	
39 ...	"and a half" ...	
44 ...	"three" ...	"five."
45 ...	"three" ...	"five."
59 ...	"And provided that no greater expenditure, &c., (to the end of the section).	
66 ...	"A rate payable by owners on the annual value of houses, buildings and lands."	"A consolidated rate for general purposes and for the special purposes of police and lighting payable on the annual value of houses, buildings and lands."

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
66 ...	"Rates payable by occupiers, and assessed in the manner hereinafter provided, for the special purposes of police, lighting, water-supply, halalcore service."	"Rates, payable on the annual value of houses, buildings and lands, for the special purposes of water-supply and halalcore service."
71 ...	"owner of the property, the name of the occupier."	"person liable to payment of the rates aforesaid."
" ...	"rate"	"rates."
74, Clause 1 ...	"rate"	"said rates."
76, Clause 1 ...	"house-rate" (in both places in which it occurs).	"said rates."
77 ...	"house-rate"	"the consolidated rate leviable under section sixty-nine."
80 ...	"rate" ... ... (in both places in which it occurs.)	"rates."
81 ...	"rate" ... ... (in the four places in which it occurs.)	"rates."
90 ...	"above"	"water."
" ...	"from the said water works"	
91 ...	"from the said Vehar Water Works."	
92 ...	"said water works" ...	"Vehar Water Works."
108 ...	"persons interested therein".	"rate-payer during office hours."
110 ...	"half year"	"quarter."
113 ...	"shall"...	"may with the consent of the Town Council."
116 ...	"V. of 1870"	"I. of 1873."
120 ...	"ten"	"five."
123 ...	"January"	"September."
127, in the body of the section and also in the marginal note).	"Court of Petty Sessions."	"the Chief Presidency Magistrate."

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
137, Clause 2 ...	"for the extinction of fires."	"for the entertainment of a Fire Brigade for extinguishing fires and protecting life and property in case of fire."
142 ...	"From and after the date when this Act comes into operation."	
144 ...	"From and after the day upon which this Act comes into operation."	
148 ...	"Magistrate or the Court of Petty Sessions as the case may be of the City of Bombay."	"Presidency Magistrate."
149 ...	"if he undertake to pay the occupier's water-rate on the assessment of the whole property so long as the property is occupied in whole or in part."	
158 ...	"if he thinks fit" ...	"with the sanction of the Town Council."
" ...	"one month"	"six weeks."
159 ...	"according to the frontage of their respective houses, buildings, or lands, and."	
161 ...	"After this Act comes into operation."	
163 ...	"regular line of a public street."	"line which may be laid down by the Executive Engineer, with the consent of the Municipal Commissioner, as the future regular line of the public street in which such house or building is situate."

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
163 ...	"in greater part been taken down, burned down, or has fallen down."	"to any considerable extent been burned down or taken down whether by order of the Municipal Commissioner under section two hundred of this Act, or otherwise, or has fallen down."
169 ...	"after this Act comes into operation."	
172 ...	"and whether existing at the time when this Act comes into operation, or subsequently erected."	
173 ...	"when this Act comes into operation."	
182 ...	"after this Act comes into operation."	
185 ...	"existing at the time of the passing of this Act, or afterwards made."	
189 ...	"Corporation and of Government."	"Town Council and subject to the general orders of Government."
192 ...	"put up after this Act comes into operation."	
195 ...	"public."	
196 ...	"public."	
" ...	"after this Act comes into operation."	
200 ...	"three days after such notice."	"such time not exceeding three days after delivery of such notice as the Commissioner shall, under the circumstances of the case, deem reasonable, and shall cause to be named in the said notice."
208 ...	"public" (in the two places in which it occurs).	

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
213 ...	"in streets."	
" ...	"in the street."	
" ...	"in any street except."	"elsewhere than."
214 ...	"dung, dust, dirt, ashes, refuse, dead animals, rubbish and other filth collected and removed under the authority of this Act shall be deposited in the neighbourhood of populous localities nor within the limits of the City of Bombay."	"or dead animals as aforesaid shall be deposited in the neighbourhood of populous localities or within the limits of the City of Bombay, and that no such dung, dust, dirt, ashes, refuse or other rubbish as aforesaid shall be deposited within the limits of the City of Bombay except with the sanction of the Town Council."
220 ...	"and" (where it occurs between the word "filthy" and the word "unwholesome").	"or"
222 ...	"the Court of Petty Sessions at Bombay."	"A Presidency Magistrate."
" ...	"Court" (in the two places where it occurs).	"Magistrate."
225 ...	"the first quarter of."	
233 ...	"Magistrates of the City of Bombay" (in both places in which they occur).	"Presidency Magistrates."
235 ...	"after the passing of this Act."	
237 ...	"when this Act comes into operation."	
241 ...	"Corporation." ...	"Town Council."
244 ...	"or drink" (the first, third and fourth time they occur in the section).	"drink or medicine."
" ...	"or drink" (the second time they occur in the section).	"or medicine, or are not what the seller represents them to be."

Section and Clause of the Principal Act.	Words repealed.	Words, if any, substituted for the words repealed.
252 ...	"Magistrates of the City of Bombay" (in both places in which they occur).	"Presidency Magistrates."
256 ...	"after this Act comes into operation."	
272 ...	"and in at least one of the daily English newspapers and in one Gujarati daily newspaper, and one Marathi newspaper circulating within the city."	
284 ...	"the Court of Petty Sessions."	"a Presidency Magistrate."
" ...	"it"	"he"
285 (in the Proviso).	"house, place, works or land."	"dwelling-house."
289 ...	"Court of Petty Sessions."	"Chief Presidency Magistrate."
290 ...	"the Court of Petty Sessions."	"a Presidency Magistrate."
" (in the body of the Section and also in the marginal note.)	"Court" (in the three places in which it occurs).	"Magistrate."
291 ...	"Court" ...	"Magistrate."
295 ...	"the Court of Petty Sessions."	"a Presidency Magistrate."
" ...	"Court" (in the two places in which it occurs).	"Magistrate."
299 ...	"Magistrate of Police."	"Presidency Magistrate."
Schedule C. ...	"as owner (or occupier)."	

BOMBAY ACT No. V. OF 1878.

[*Received the assent of the Governor of Bombay on the 26th July 1878, and of the Governor General on the 7th September 1878, and published by the Governor of Bombay on the 19th September 1878.*]

An Act to consolidate and amend the Abkari Law of the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale, and possession of liquor and of intoxicating drugs in the Presidency of Bombay; It is enacted as follows:—

I.—Preliminary.

1. This Act may be cited as "The Bombay Abkári Act, 1878." Short title.

It extends to the whole of the Presidency of Bombay; Extent.

And it shall come into force in any portion of the said Presidency on such date as Government by notification in the *Bombay Government Gazette* directs. Commencement.

2. The enactments mentioned in the schedule hereto annexed are repealed to the extent specified in the third column of the said schedule: Repeal of enactments.

Provided that all licenses granted under any of the said enactments in force on the date on which this Act comes into operation shall continue in force for the periods for which the same have been respectively granted, subject to the provisions of the enactments under which such licenses were granted:

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any penalty which has been incurred, before this Act comes into operation.

3. In

[*Price seven annas.*
B 380—1

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context :—

"Abkári Revenue."

(1) "Abkári Revenue" means revenue derived or derivable from any duty, fee, tax, fine, or confiscation imposed, or ordered, under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs ;

"Abkári Officer;"

(2) "Abkári Officer" means a Commissioner, Collector, or any officer, or other person, lawfully appointed, or invested with powers under section six ;

"Commissioner;"

(3) "Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere a Commissioner of Land Revenue, or if Government appoint any other officer to be a Commissioner for the purposes of this Act, such other officer;

"Collector;"

(4) "Collector" means a Collector of Land Revenue, or any person appointed under section five to exercise the powers and perform the duties of a Collector under this Act ;

"Magistrate;"

(5) "Magistrate" means, in the City of Bombay, a Presidency Magistrate, and elsewhere a Magistrate of the first or second class ;

"toddy;"

(6) "toddy" means juice drawn from a cocoanut, brab, date, or any kind of palm tree, whether in its fermented or unfermented state ;

"liquor;"

(7) "liquor" includes spirits of wine, spirits, wine, toddy, beer, and all liquid consisting of or containing alcohol ;

"country liquor;"

(8) "country liquor" includes all liquor produced or manufactured in India ;

"intoxicating drug."

(9) "intoxicating drug" includes ganja, bhang, and every preparation and admixture of the same, and every intoxicating drink or substance prepared from hemp, grain or other material not included in the term "liquor"; but does not include opium or any thing included within the meaning of that word as defined in the Indian Opium Act, 1878.

(10) "import"

(10) "import" and "export" include respectively the conveying into, or out of, any part of the Presidency of Bombay, from, or to, any other part of India; "import;" "export;"

(11) "manufacture" includes every process, whether natural or artificial, by which any spirituous, fermented, or intoxicating liquor or intoxicating drug is prepared, and also every process for the rectification of liquor; "manufacture;"

admixing is a process within the meaning of this definition;

(12) "ser" means a weight of eighty tolas. "ser."

II.—Establishment and Control.

4. Subject to the control and direction of the Commissioners and the orders of Government, the Collectors are charged with the collection of the Abkári revenue, and with the carrying out of the provisions of this Act. Collectors charged with carrying out this Act.

For the purposes of this Act the Collector of Bombay shall be subordinate to such Commissioner as Government directs.

5. Government may, by notification in the *Bombay Government Gazette*, appoint any person other than the Collector of Land Revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of Government, as Government may from time to time direct. Special Collectors of Abkári Revenue may be appointed.

6. To aid the Collectors in carrying out the provisions of this Act, the Commissioners may, subject to such orders as may from time to time be passed by Government in this behalf, appoint such subordinate officers with such designations, and assign to them respectively such powers and duties under this Act as they deem fit. Subordinate officers.

Government

Government, or, subject to such orders as aforesaid, the Commissioners may invest any Government officer in any department, either personally or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act as they deem fit, and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office:

Provided that powers under sections thirty-six and forty, clause (*b*), shall in no case be conferred on any officer of any department who is not superior in rank to a peon or constable, and that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority which made it.

Punishment of subordinate officers for misconduct.

7. Subject to such orders as aforesaid, the Commissioners may at any time after inquiry recorded in writing, fine, dismiss, suspend or reduce any subordinate officer appointed, or any officer on whom any additional powers or duties have been conferred or imposed by them under the provisions of the last preceding section, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

Delegation of powers by Commissioners to Collectors.

8. The powers conferred on the Commissioners by the last two sections may be delegated by them, in whole or in part, to the Collectors, or to any Collector subordinate to them, and any such delegation may be at any time cancelled by the Commissioners.

III.—Import, Export, and Transport.

Import of liquor or intoxicating drug.

9. No liquor or intoxicating drug shall be imported by land or by sea into any part of the Presidency of Bombay unless—

(*a*). it is liable to the payment of duty under the Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs

customs on goods imported into British India and the duty prescribed by such law has been paid thereon ; or

(*b*) such import is permitted under the power next hereinafter conferred ;

Subject to the orders of Government the Collector may, from time to time,

(*c*) permit the import of liquor, or intoxicating drugs, or of any kind of liquor or intoxicating drugs other than liquor or intoxicating drugs liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

Export of liquor or intoxicating drug.

10. No liquor or intoxicating drug shall be exported by land or by sea from any part of the Presidency of Bombay unless—

(*a*) it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation ; or

(*b*) such export is permitted under the power next hereinafter conferred ;

Subject to the orders of Government the Collector may from time to time,

(*c*) permit the export of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

Sections 9 and 10 not to affect

11. Provided that nothing in the two last preceding sections shall be deemed to affect any law for the time being in force which prohibits or restricts the

certain laws and powers of Governor General in Council.

the importation of any liquor or intoxicating drug into the said Presidency, or which empowers the Governor General in Council to prohibit or restrict such importation, or which empowers the Governor General in Council to exempt any liquor or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force:

Provided further that it shall be lawful for the Governor General in Council or for the Governor of Bombay in Council to exempt any liquor or intoxicating drug from any duty to which the same may be liable under either of the said sections, or under any of the other provisions of this Act.

Transport of liquor and intoxicating drugs.

12. No liquor or intoxicating drug exceeding such quantity as Government may from time to time deem fit to prescribe by notification in the *Bombay Government Gazette* either generally for the whole Presidency, or for any local area, district, city, town or village, shall be transported, or removed from any one place to any other place unless—

(*a*) in the case of liquor other than country liquor, the quantity transported or removed is *bonâ fide* required for private consumption, or for sale at any place to which the same is being transported or removed, and at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, or

(*b*) under a permit issued by an Abkári Officer duly empowered in this behalf under the provisions of the next following section.

Permits for transport.

13. Permits for the transport or removal of liquor or intoxicating drugs may be issued by the Collector or by any other Abkári Officer duly empowered in this behalf.

Such permits may be issued either generally for definite periods, or for specified occasions only.

Every such permit shall specify:

(*a*) the name of the person authorized to transport or remove liquor or intoxicating drugs;

(*b*) the

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted, and

(*d*) the places from and to which the liquor or intoxicating drugs are to be transported or removed, and, in the case of places more than ten miles apart, the route by which they are to be conveyed.

IV.—Manufacture.

Manufacture of liquor or intoxicating drug prohibited except under the provisions of this Act.

14. No liquor or intoxicating drug shall be manufactured,

no toddy shall be drawn from any tree,

no distillery or brewery shall be constructed or worked, and

no person shall use, keep, or have in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug,

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf or under the provisions of section twenty-three.

Establishment of public distilleries.

15. The Collector may, with the previous sanction of Government,

(*a*) establish at any place within his jurisdiction a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under the last preceding section on such conditions as Government deems fit to impose, and

(*b*) discontinue any public distillery so established.

V.—Sale.

Sale of liquor and intoxicating

16. Except as is hereinafter otherwise provided, no liquor and no intoxicating drug shall be sold without a license or pass from the Collector:

Provided

drugs prohibited without a license or pass.

Provided that in the city of Bombay, and in such other places as Government may from time to time direct, no such license shall be necessary for the sale of any liquor not manufactured or produced in India, in its original casks or packages as imported, or in small quantities as *bonâ fide* samples;

Provided, further, that no such license shall be necessary for the sale by a cultivator or owner of any plant from which an intoxicating drug is produced, of those portions of the plant from which the intoxicating drug is manufactured or produced to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs.

Limit of retail sale.

17. It shall be lawful for Government from time to time, by notification in the *Bombay Government Gazette*, to limit the quantity of country liquor or of any intoxicating drug which may be sold by retail at one time, or to one and the same person in the aggregate on any one day within any defined local area or place.

When any such limit has been prescribed in any local area or place, the Collector, or any Abkári Officer duly empowered in this behalf may, subject to rules to be prescribed by the Commissioners under section thirty-five, give special orders for the occasional sale of country liquor, or of any intoxicating drug in quantities exceeding such limit.

Sale of toddy.

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy shall sell toddy, and no person transporting or removing toddy under a permit granted under clause *b* of section twelve shall sell the same except—

(*a*) under a license granted under section sixteen, or

(*b*) to a person licensed to manufacture or sell liquor under this Act:

Provided

Provided that Government may from time to time, by notification in the *Bombay Government Gazette*, suspend all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without license or pass in such local area, notwithstanding anything in this Act.

VI.—Duties.

Duty on liquor.

19. A duty shall, if Government so direct, be levied on all liquor—

(*a*) permitted to be imported into any part of the Presidency of Bombay under the provision of section nine, clause (*c*), or

(*b*) permitted to be exported from any part of the Presidency of Bombay under the provision of section ten, clause (*c*), or

(*c*) manufactured under any license granted under section fourteen, or

(*d*) manufactured at any distillery established under section fifteen, or

(*e*) permitted under section thirteen to be transported or removed from any one place to any other place,

at such rate, or rates, as Government may from time to time prescribe.

Rate.

The said duty may be imposed at a certain rate per imperial gallon of liquor of not more than a certain strength, to be augmented in proportion as the strength of the liquor exceeds such strength, or in a lump sum to be paid daily or monthly or at other specified periods, in consideration of the privilege granted, or in any other manner whatsoever that Government may deem fit to direct.

Duty on tapping of toddy-trees.

20. For every toddy-producing tree from which toddy is drawn there shall, if Government so direct, be levied for any period during which such tree is tapped, such duty as Government from time to time directs;

and

and every license for drawing toddy granted under section fourteen shall specify, in addition to any other particulars prescribed by Government under section thirty :

(*a*) the number, description, and situation of the trees to be tapped ;

(*b*) the amount of duty to be levied in respect of each tree included in the license ;

(*c*) the instalments, if any, in which and the periods at which the said duty shall be leviable.

Duty by whom payable.

21. The said duty shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees.

Owner entitled to assistance in recovering from licensee duty paid by him.

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the license under the provisions of the law for the time being in force relating to the recovery by superior landholders of their dues from their tenants.

Farming of the right of drawing toddy within a local area.

23. It shall be lawful for the Government within any local area to which they shall deem fit to apply the provisions of this section, instead of directing the levy of a duty under section twenty on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

Levy of tax or fee on toddy trees before the passing of this Act legalized

24. The levy heretofore made in certain districts of a tax on the tapping of toddy trees, or of a license-fee for drawing toddy from such trees, shall be deemed to have been lawfully made, and may hereafter be continued, subject to the provisions of this Act,

Act, at the same rates and subject to the same rules as are now in force until such time as Government, in exercise of the powers conferred by this Act, otherwise directs.

Arrears of any such tax or fee which accrued before the passing of this Act shall be recoverable as a duty due under this Act.

Privilege of drawing toddy from Government trees.

25. The privilege of drawing toddy from trees the right to which vests in Government, may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of Government, deems fit.

Adjustment of duty when joint privileges are conceded.

26. Whenever one and the same person is permitted:

(*a*) to draw toddy and sell it in its unfermented state, or

(*b*) to draw toddy and export it in its unfermented state, or

(*c*) to import unfermented toddy and sell it in its unfermented state, or

(*d*) to draw or to import fermented or unfermented toddy and use it in the manufacture of other liquor, or

(*e*) to manufacture, or to import, and sell, or

(*f*) to manufacture and export

any country liquor other than unfermented toddy, such duty may be levied in consideration of the joint privileges granted, as the Collector, acting under the general or special orders of Government, thinks fit.

Duty on intoxicating drugs.

27. Whenever a license is granted under this Act for the manufacture or sale of any intoxicating drug, and whenever the import, export, transport or removal from place to place of any intoxicating drug is permitted under this Act, such duty shall be levied in consideration of the privilege granted, as the Collector, acting under the general or special orders of Government, thinks fit.

28. All

Duties may be farmed.

28. All or any of the duties leviable under this Act in any local area, may, with the sanction of Government, be farmed, subject to such payment and on such other conditions as Government shall prescribe.

Farmer may apply to Collector to recover amounts due to him.

29. When any amount is due to any such farmer from such farmer's licensee in respect of a license, or to any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the Civil Court to try the demand of the farmer, and furnishes security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the Civil Court or otherwise any amount due to him from any such person as aforesaid.

VII.—Licenses, &c.

Form and conditions of licenses, &c.

30. Every license, permit, or pass granted under this Act shall be granted:

(*a*) on payment of such fees, if any,

(*b*) for such period,

(*c*) subject to such restrictions and on such conditions, and

(*d*) shall be in such form and contain such particulars,

as Government directs in rules or orders made either generally, or in any particular instance, in this behalf, such rules or orders being not inconsistent with this Act.

31. Every

31. Every person taking out a license for the manufacture or sale of any liquor or intoxicating drug under this Act, shall execute a counterpart agreement in conformity with the tenor of his license, and shall give such security for the performance of his agreement as the Collector may require.

Counterpart agreement to be executed by licensees.

32. The Collector may summarily recall or cancel any license, permit, or pass granted under this Act,

Power to recall licenses, &c.

(*a*) if any fee or duty payable by the holder thereof be not duly paid, or

(*b*) in the event of any breach by the holder of such license, permit or pass, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such license, permit or pass, or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to Abkári revenue, or of any criminal offence.

VIII.—General Provisions.

33. Every person who manufactures or sells liquor under a license granted under this Act shall be bound:

Certain licensees required to keep measures, &c.

(*a*) to supply himself with such measures and with such instruments for testing the strength or quality of liquor as the Collector prescribes, and to keep the same in good condition, and

(*b*) on the requisition of any Abkári Officer duly empowered in this behalf at any time to measure out or test the strength or quality of any liquor in his possession in such manner as the said Abkári Officer may require.

34. All duties, taxes, fines and fees leviable under any of the foregoing provisions of this Act or of any license, permit or pass issued under it, and all amounts due from any farmer under this Act may be recovered from the person primarily liable to pay the same,

Recovery of duties, &c.

same, or from his surety (if any) as if they were arrears of land-revenue.

IX.—Powers of Abkári Officers.

Power to Commissioners to frame rules.

35. The Commissioners may from time to time frame rules:

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who use it in the manufacture of other liquor;

(*b*) determining the number of licenses of each description to be granted in any district or place;

(*c*) regulating the number, size, and description of stills to be used in any distillery;

(*d*) providing for the inspection and supervision of stills, distilleries, and breweries;

(*e*) for the management of any public distillery established under section fifteen;

(*f*) for placing the preparation of intoxicating drugs, and the storage, import, export, transport or removal of liquor or intoxicating drugs under such supervision as may be deemed necessary for the purposes of this Act;

(*g*) prescribing the occasions on which special orders may be granted under section seventeen for the retail sale of larger quantities of country liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;

(*h*) prohibiting the use of any article which they shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug.

Power to enter and inspect places of manufac-

36. Any Commissioner, or Collector, or other Abkári Officer duly empowered in this behalf, may

(*a*) enter and inspect, at any time by day or by night, any shop or premises in which any licensed manufacturer

manufacturer or vendor carries on the manufacture or sale of any liquor or intoxicating drug, or draws toddy, or stores any such liquor or drug, and examine, test, measure, or weigh any such person's stock of liquor, drugs, or materials; or

ture and sale, and to enter, seize, and arrest on information that liquor, &c., is unlawfully kept in any enclosed place.

(*b*) enter, at any time by day or by night, any building, vessel or enclosed place in which he has reason to believe that liquor or any intoxicating drug liable to confiscation under this Act is manufactured, kept, or concealed, or that toddy is drawn or that any still, utensil, implement, or apparatus is used, kept or concealed for the purpose of manufacturing liquor or any intoxicating drug contrary to the provisions of this Act; and

(*c*) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel, or other place; and

(*d*) seize any liquor or drug and any material used in the manufacture thereof, and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to Abkári revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to Abkári revenue.

Power to seize liquor, &c., in open places, and to detain, search, and arrest.

37. Any Commissioner, or Collector, or other Abkári Officer duly empowered in this behalf, may

(*a*) seize in any open place, or in transit, any liquor or intoxicating drug or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to Abkári revenue;

(*b*) detain

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and if such person has any such liquor, drug, or other thing in his possession, arrest him.

Searches how made.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the Code of Criminal Procedure.

Officers of certain departments bound to assist.

39. All officers of the departments of Police, Customs, Salt, Opium or Revenue or of the Bombay Port Trust, shall be legally bound to assist any Abkári Officer in carrying out the provisions of this Act.

Issue of warrants.

40. Any Commissioner, or Collector, or other Abkári Officer duly empowered in this behalf, or a Magistrate, may issue a warrant:

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to Abkári revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel, or place in which he has reason to believe that any liquor or intoxicating drug is manufactured or sold, or that any toddy is drawn contrary to the provisions of this Act, or that any liquor, intoxicating drug, or other thing liable to confiscation under this or any other law for the time being in force relating to Abkári revenue is kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure by a Police Officer or by an Abkári Officer duly empowered in this behalf, or, if the officer issuing the warrant deems fit, by any other person.

Disposal of person arrested or thing seized.

41. Every person arrested and thing seized under section thirty-six, thirty-seven or forty shall be forwarded without delay to the officer in charge of the nearest police-station, who shall inquire into and deal with the case as one of an offence for which the Police may arrest without a warrant.

42. It

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold by retail shall be closed at such times as he may deem it necessary for the sake of public peace and order that such shop should remain closed. Closing of shop for the sake of public peace.

In the event of the occurrence of a riot or unlawful assembly in the vicinity of any such shop, it shall be lawful for any Magistrate or Police Officer who is present, to require such shop to be kept closed for such period as he deems fit.

X.—*Penalties.*

43. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit, or pass obtained under this Act, For illegal import, &c.

(*a*) imports or exports liquor or any intoxicating drug into or out of any part of the Presidency of Bombay, or

(*b*) transports or removes liquor or any intoxicating drug from one place to another, or

(*c*) manufactures liquor or any intoxicating drug, or

(*d*) draws toddy from any tree, or

(*e*) constructs or works any distillery or brewery, or

(*f*) uses, keeps, or has in his possession any material, still, utensil, implement, or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug, or

(*g*) sells liquor or any intoxicating drug,

shall be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit, or pass obtained under this Act, For neglect to keep measures, &c.

(*a*) neglects to supply himself with measures for measuring liquor, or with instruments for testing

ing the strength of liquor, or to keep the same in good condition, or

(*b*) refuses to measure or test the strength or quality of any liquor in his possession,

shall be punished for each such offence with fine which may extend to two hundred rupees.

For misconduct by licensee, &c.

45. Whoever, being the holder of a license, permit, or pass granted under this Act,

(*a*) fails to produce such license, permit, or pass on the demand of any Abkári Officer duly empowered to make such demand, or of any officer of the departments named in section thirty-nine superior in rank to a peon or constable, or

(*b*) wilfully does, or omits to do, any thing in contravention of any rules or orders made under this Act, or

(*c*) commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, or

(*d*) wilfully contravenes any rule prescribed by a Commissioner for the management of a public distillery established under section fifteen of this Act, or

(*e*) commits any act in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery, or

(*f*) permits drunkenness, riot, or gaming in any shop or place in which such liquor or drug is sold or manufactured, or

(*g*) permits persons of notoriously bad character to meet or remain in any such shop or place,

shall be punished for each such offence with fine which may extend to one hundred rupees.

For misconduct by licensed vendor or manufacturer.

46. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act,

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him

him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under section thirty-five, clause (*h*), when such admixture shall not amount to the offence of adulteration under section two hundred and seventy-two of the Indian Penal Code, or

(*b*) sells, or keeps, or exposes for sale as European or foreign liquor, liquor which he knows or has reason to believe to be country liquor, or

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section four hundred and eighty-two of the Indian Penal Code, or

(*d*) sells or keeps, or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section four hundred and eighty-six of the Indian Penal Code,

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

For illegal possession of liquor, &c.

47. Whoever, except under the authority of some license, permit, pass or special order obtained under this Act, has in his possession within any local area or place to which the provision of section seventeen has

has been applied, any larger quantity of country liquor or of any intoxicating drug than may legally be sold by retail under the provision of the said section, shall be punished with fine which may extend to two hundred rupees.

For maliciously giving false information.

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the intent that such person be arrested, or that any building, vessel, or other place be searched to the injury or annoyance of such person or of any other person, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, or with both.

For vexatious search or arrest.

49. Any Abkári or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel, or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches, or arrests any person,

shall for every such offence be punished with fine which may extend to five hundred rupees.

For vexatious delay.

50. Any Abkári or other officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest police station as required by section forty-one of this Act, any person arrested, or any illicit articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For conniving at escape of persons arrested, &c.

51. Any Abkári or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may

may be evaded or broken, or the Abkári revenue defrauded,

and any officer of any other department named in section thirty-nine invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall for every such offence be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

For neglecting to assist an Abkári Officer.

52. Any officer of any of the departments named in section thirty-nine who, without lawful excuse, neglects or refuses to assist any Abkári Officer in carrying out the provisions of this Act, shall be punished with fine which may extend to five hundred rupees.

Presumption as to commission of offence in certain cases.

53. In prosecutions under section forty-three or section forty-seven it shall be presumed, until the contrary is proved, that the accused person has committed an offence under those sections in respect of any liquor or intoxicating drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor or intoxicating drugs, or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily;

and the holder of a license, permit, or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting on his behalf under section forty-three, forty-four, forty-five or forty-six as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

What things liable to confiscation.

54. All liquor or intoxicating drugs imported, exported, transported, removed, manufactured, sold, or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license, permit, or pass obtained under this Act, and

all

all toddy drawn from any tree in contravention of this Act, or of any such rule, order, license, permit, or pass as aforesaid; and

all liquor, if any, and all intoxicating drugs, if any, lawfully imported, exported, transported, removed, manufactured, sold, or had in possession, and all toddy, if any, lawfully drawn, along with, or in addition to, any liquor or intoxicating drugs, imported, exported, transported, removed, manufactured, sold, or had in possession, or along with or in addition to any toddy drawn as aforesaid, and

all stills, utensils, implements or apparatus whatsoever for the manufacture of liquor or of any intoxicating drug, used, kept, or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license obtained under this Act, and

all materials collected or had in possession for the purpose of unlawfully manufacturing liquor or any intoxicating drug, and

the vessels, packages, and coverings in which any liquor, intoxicating drug, still, utensil, implement, apparatus, or material aforesaid, is found; and the other contents, if any, of the vessel or package in which the same is found, and the animals, carts, vessels, or other conveyances used in carrying the same,

shall be liable to confiscation.

Order of confiscation by whom to be made.

55. All confiscations under this Act shall be adjudged by the Collector:

Provided that no order of confiscation shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing any person who claims a right thereto, and the evidence, if any, which he produces in support of his claim.

Redemption may be allowed.

Whenever confiscation is ordered under this Act, the owner of the thing ordered to be confiscated may at the discretion of the Collector, be given an option of

of redeeming it on payment of such fine as the Collector thinks fit.

XI.—Procedure.

56. All offences against this Act shall be cognizable by a Magistrate. Cognizance of offences.

57. The provisions of sections sixty-four to seventy, both inclusive, of the Indian Penal Code shall apply to all fines inflicted by a Magistrate under this Act; and any imprisonment awarded under this Act may be of either description within the meaning of the Indian Penal Code. Applicability of certain portions of the Indian Penal Code.

58. All things confiscated under this Act shall be disposed of in such manner as the Commissioners from time to time direct in rules or orders made either generally or in any particular instance in this behalf. Disposal of things confiscated.

59. Government may from time to time make rules for regulating the payment of rewards to officers and informers out of the proceeds of fines and confiscations under this Act. Payment of rewards.

60. All orders passed by any Abkári Officer other than the Collector or Commissioner under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of. Appeals.

All order spassed by a Collector or Commissioner shall be appealable to the Commissioner or to Government, respectively, at any time within ninety days from the date of the order complained of:

Provided that no appeal shall lie against an order passed by a Commissioner on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

XII.—Miscellaneous.

61. Nothing in this Act affects Act XVIII. of 1853 *(An Act for regulating the sale of spirituous liquors, &c., in Cantonments)*, or sections twenty-one Saving of certain Acts.

to

to twenty-seven, both inclusive, of Bombay Act VII. of 1867 *(An Act to make provision for the administration of Military Cantonments in the Bombay Presidency)*, or Act XVI. of 1863 *(An Act to make special provision for the levy of the excise duty payable on spirits used exclusively in arts and manufactures or in chemistry)* or any enactment passed by the Governor General in Council since the 16th November 1861, the date on which the Indian Councils Act came into force.

Exception of medicated articles.

62. Nothing in the foregoing provisions of this Act applies to the manufacture, sale, or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries, or keepers of dispensaries; but it shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to prohibit the sale of any such article within any defined local area or place except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

Annual payment to be made to the Bombay Municipal Corporation in lieu of money received under Bombay Act IX. of 1867.

63. Whereas it was provided by Section 14 of Bombay Act IX. of 1867 that all money realized, collected or obtained by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the Municipal Fund of the City of Bombay for municipal purposes, it is hereby enacted that in lieu of the money hitherto so received by the Municipal Corporation of the City of Bombay a fixed sum of Rs. 1,43,750 shall, from and after the 1st day of August 1878, be annually paid by Government to the said Corporation for the said purposes.

Special Abkári rights of the owner of the Poway Estate to cease.

64. Whereas a certain estate known as "The Poway Estate" and situate in the Island of Salsette in the Tanna Collectorate was assigned by the East India Company to one Framji Cawasji under an indenture bearing date the 15th day of February 1837, in virtue of which indenture the legal representative

sentative of the said Framji Cawasji, now deceased, is entitled, amongst other things, to certain rights and immunities in respect of the Abkári revenue of the said estate; and whereas it is detrimental to the general Abkári revenue of the district that such exceptional rights and immunities should be continued; it is enacted that on and after the date on which this Act comes into operation, the said rights and immunities shall cease and determine, and the general provisions of this Act shall have effect in the said estate as if the said indenture had never been executed:

But compensation to be paid by Government.

Provided that compensation shall be payable by Government to the receiver for the time being duly appointed by the High Court of Judicature at Bombay in its ordinary Original Civil Jurisdiction in Suit 877 of 1870, wherein Mithibai, widow, and others are Plaintiffs, and Limji Nowroji Banaji and others are Defendants, being a suit for the administration of the estate of the said Framji Cawasji for the loss and determination of the said rights and immunities, and that if such receiver is dissatisfied with the amount of compensation offered by Government, the amount to be paid and all other questions in respect of such payment may be referred to the arbitration of such person as may be agreed upon by Government and such receiver, whose decision shall be final, or in default of such reference that the amount of such payment and such other questions as aforesaid shall be determined under the provisions of the Land Acquisition Act of 1870, so far as the same may be applicable as if the said rights and immunities were land situate in the Tanna District required for public purposes:

The amount, &c., being determined if necessary under Act X. of 1870.

When compensation has been once paid, further claims barred.

Provided, further, that the payment of compensation to such receiver shall bar all claims of any other person against Government in respect of the same.

Certain rights of exemption in

65. And whereas the villages of Mallar, Daiunser, Magaton, Tulsi, Arrem, Exur, Kanari, and Pahadi,

in respect of certain villages in Salsette to cease.

in the said Island of Salsette, were assigned by the East India Company to Cursetjee Ardaseer and Jehangeer Ardaseer under an indenture dated the 25th January 1819, in virtue of which indenture the said Cursetjee Ardaseer and Jehangeer Ardaseer and their legal representatives are entitled to have hold and enjoy all and singular the brab and other trees, and all other produce of any kind what soever grown or produced on the lands thereby assigned free and clear of, and without being subject to any taxation or assessment whatever, and whereas it is deemed expedient that the holders of the said villages shall be nevertheless subject to all the provisions of this Act as if the said indenture had never been executed; It is enacted that on and after the date on which this Act comes into operation, all right of exemption to which the holders of the said villages may on such date be entitled under the said indenture from any duty, tax, or fee, imposed or imposeable under this Act, shall cease and determine :

But compensation to be paid by Government.

Provided that compensation shall be payable by Government to the said Cursetjee Ardaseer and Jehangeer Ardaseer or to such other person as may be lawfully in possession of the said villages, or of any portion thereof, for any loss that may arise by reason of the determination of such right of exemption, and that if the said Cursetjee Ardaseer, Jehangeer Ardaseer, or other person, or any of them, is dissatisfied with such amount of compensation as may be offered by Government, the amount to be paid and all other questions in respect of the right to compensation may be referred to the arbitration of such person as may be agreed upon by Government and the said Cursetjee Ardaseer, Jehangeer Ardaseer, or other person aforesaid, whose decision shall be final, or, in default of such reference, that the amount of such payment and such questions aforesaid shall be determined under the provisions of the Land Acquisition Act, 1870, so far as the same may be applicable, as if the said right of exemption were

The amount &c., being determined, if necessary, under Act X. of 1870.

land

land situated in the Tanna District required for public purposes:

Provided further that the payment of compensation to the said Cursetjee Ardaseer, Jehangeer Ardaseer, or other person, in respect of the said villages, or any portion thereof, shall bar all claims of any other person against Government in respect of the same.

When compensation has been once paid, further claims barred.

66. Any holder of a village in the Island of Salsette other than the villages mentioned in the last preceding section, who shall apply to the Governor in Council at any time within three months after this Act comes into force, and shall establish to the satisfaction of the Governor in Council that he holds his said village under an indenture containing the same terms as to exemption from taxation or assessment or terms to the like effect, as those contained in the said indenture of the 25th January 1819, shall be entitled to be dealt with in the same manner as the holders of the villages named in the last preceding section, and in any such case the provisions of the last preceding section shall apply as if such holder's village had been specifically named therein.

Provisions of last section may be extended to other villages.

67. No action shall lie against Government, or against any Abkári Officer for damages in any Civil Court for any act *bonâ fide* done or ordered to be done by them in pursuance of this Act, or of any law at the time in force relating to Abkári revenue;

Bar of actions.

and all prosecutions of any Abkári Officer, and all actions which may be lawfully brought against Government, or against any Abkári Officer, in respect of any thing done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards;

and any such action shall be dismissed

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other

other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

(*b*) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant:

Provided that nothing in this Section shall be deemed to affect the powers or jurisdiction of Her Majesty's High Court of Judicature or of the Court of Small Causes at Bombay.

SCHEDULE.

(*See section two.*)

Enactment.	Subject.	Extent of repeal
Reg. XXI. of 1827.	Spirituous liquor.	So much of Chaps. X., XI., XII., and XIII. as has not already been repealed.
Reg. XXII. of 1827.	Military Authority.	Sections twenty-nine and forty-eight to fifty-five, both inclusive, so far as they have not already been repealed.
Act III. of 1852.	Spirituous and intoxicating liquors and drugs.	The whole Act so far as it has not already been repealed.
Act XXXIV of 1857.	Sale of ganja.	Do.
Act XVII. of 1859.	Abkári revenue in the Island of Bombay.	Do.
Bombay Act IX. of 1867.	Do. ...	Do.
Bombay Act I. of 1878.	Do. ...	The whole Act.

LIBRARY.

BOMBAY ACT No. VI. OF 1878.

[*Received the assent of the Governor of Bombay on the 30th September* 1878, *and of the Governor General on the 28th October* 1878, *and published by the Governor of Bombay on the 31st October* 1878.]

An Act to remove doubts as to the time when certain portions of the Bombay Municipal Act Amendment and Continuance Act, 1878, were intended to come into force.

WHEREAS by the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878, it was provided that so much of the said Act as relates to any rate or tax leviable by the Corporation other than Town Duties, should be deemed to have come into force on the first day of January 1878, and that the rest of the Act should come into force on the passing thereof; and doubts are entertained as to the meaning of the words "on the passing thereof," and as to the effect of the said provision in respect of the levy of Town Duties fixed by the Corporation under section one hundred and fifteen of the Bombay Municipal Act of 1872 for the year 1878, and it is expedient to remove such doubts;

And whereas owing to the assent of the Governor General to the said Act not having been published before the 1st July 1878, the provisions of Section 9 D of the Bombay Municipal Act of 1872, as amended by the said Act, were not in force during the first half of the year 1878, and doubts are entertained as to whether the list of persons qualified to be elected or appointed members of the Corporation and of persons qualified to vote at Rate-payers' elections could be prepared as required by that section, so as to have legal validity, but a list was nevertheless prepared

[*Price half anna.*]
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prepared and published by the Municipal Commissioner, and notice of such publication was given by him on the 2nd July 1878 in the manner intended by the said Section 9 D, and it is expedient to give legal validity to the list so prepared and published; It is enacted as follows:—

1. The following paragraph shall be and be deemed to have always been substituted for the second paragraph of section one of the Bombay Municipal Act Amendment and Continuance Act, 1878, (namely):

New para. substituted for para. 2, Section 1 of Bombay Act IV. of 1878.

"So much of this Act as relates to any rate or tax leviable by the Corporation other than Town Duties, shall be deemed to have come into force on the first day of January 1878; the rest of this Act shall come into force on the publication by the Governor of the assent of the Governor General thereto, but nothing in Section 63 shall be deemed to affect the levy of Town Duties during the year 1878 on the articles, and at the rates, prescribed and fixed by the Corporation under Section 115 of the Principal Act for the said year, and the Town Duties so fixed shall be the Town Duties leviable for the said year."

2. The List of persons qualified to be elected or appointed members of the Corporation and of persons qualified to vote at Rate-payers' elections prepared by the Municipal Commissioner as aforesaid shall be deemed for all purposes of the Bombay Municipal Acts of 1872 and 1878 to have been duly prepared and published under Section 9 D of the Bombay Municipal Act of 1872 as amended by the Bombay Municipal Act Amendment and Continuance Act, 1878.

List of Voters, &c., prepared by the Municipal Commissioner during the first half of the year 1878 to be valid.

BOMBAY ACT No. VII. OF 1878.

[*Received the assent of the Governor of Bombay on the 24th September 1878, and of the Governor General on the 11th November 1878, and published by the Governor of Bombay on the 22nd November 1878.*]

An Act to amend the law for the prevention of adulteration of Cotton and for the suppression of fraudulent practices in the Cotton Trade.

WHEREAS it is expedient to amend the law for the prevention of adulteration of cotton, and for the suppression of fraudulent practices in the cotton trade; It is enacted as follows:—

Preliminary.

1. This Act may be cited as "The Bombay Cotton Frauds Act, 1878." Short Title.

It extends to the whole of the Presidency of Bombay except Aden. Extent.

2. Bombay Act IX. of 1863 is hereby repealed. Repeal of Bombay Act IX. of 1863.

All appointments made, orders issued, notifications published, and rules prescribed under the said Act, and now in force, shall, so far as they are consistent with this Act, be deemed to have been respectively made, issued, published, and prescribed hereunder.

And all proceedings which have been commenced under the said Act shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act, provided that no persons shall be liable for any offence

[*Price two annas.*]

offence committed before the passing of this Act to a higher penalty than he would have been liable to if this Act had never been passed.

Interpretation Section.

3. In this Act, unless there be something repugnant in the subject or context,

"Bale."

(1) "Bale" includes a dockra or any other package of cotton;

"Press."

(2) "Press" includes every kind of machinery used for the purpose of compressing cotton;

"Foreign export."

(3) "Foreign export" means export out of British India;

"British India."

(4) "British India" means the territories for the time being vested in Her Majesty by the Statute 21 and 22 Vic., Cap. 106 (*An Act for the better Government of India*), other than the Settlement of Prince of Wales Island, Singapore, and Malacca;

"Imprisonment."

(5) "Imprisonment" means imprisonment of either description within the meaning of the Indian Penal Code.

Appointment and duties of Officers.

Inspectors of Cotton.

4. The Governor in Council may appoint such and so many officers, to be styled "Inspectors of Cotton," as shall from time to time appear expedient;

the said Inspectors shall be subordinate, in the city of Bombay, to the Commissioner of Customs, and in all other parts of the Presidency to the Collector of the district in which they hold their appointments, or in which they are at the time employed, and shall be liable to suspension or dismissal by order of the Governor in Council for neglect, or misconduct, in the discharge of their duties.

Duties of Inspectors.

5. It shall be the duty of the Inspectors of Cotton to suppress the use of presses which have not been licensed under this Act, and to examine cotton offered for compression, or exposed or intended for sale.

In the

In the execution of the said duty it shall be lawful for an Inspector of Cotton at all times to enter any building, or enclosure, within which he has reason to believe that any press is at work, or is prepared for work, or that the packing of cotton in dockras is being carried on.

Power to enter buildings or enclosures.

6. It shall be lawful for an Inspector of Cotton to seize and detain any cotton, wherever the same may be, which he has reason to believe is liable to confiscation under this Act, and to give the same into the custody of any police officer:

Power to seize cotton.

every police officer shall be bound to assist an Inspector of Cotton in seizing and detaining such cotton;

Police Officers bound to assist.

but it shall not be competent to any Inspector of Cotton, unless under a Magistrate's search-warrant, to open any bale which has been finally pressed for foreign export.

Proviso.

7. Every Inspector who shall seize and detain any cotton under this Act shall, within seven days from the date of such seizure and detention, apply for and obtain a summons from a Presidency Magistrate in the city of Bombay if such seizure and detention shall have taken place in that city, but if elsewhere, then from a First or Second Class Magistrate, directed to the person in whose possession the same was found, and requiring him, upon a day therein named, to show cause why such cotton should not be confiscated. If such Inspector shall not apply for and obtain such summons within the time aforesaid, such cotton shall be returned to the person in whose possession the same was found, and shall not be liable to re-seizure or detention.

Inspector seizing cotton to apply for summons.

8. Every Inspector of Cotton shall have such number of subordinates as the Governor in Council from time to time directs, and it shall be lawful for such subordinates to exercise such of the powers conferred

Subordinates and their powers.

conferred by this Act on an Inspector as the Inspector to whom they are subordinate may from time to time by writing under his hand depute them to exercise.

Press Licenses.

Presses not to be used without licenses.

9. No press shall be used for the purpose of compressing cotton without a license obtained in the manner hereinafter prescribed.

Grant of licenses.

10. Every application for a license for working a press shall be made to the Collector of the district within which such press is to be worked, or to such other officer as the Governor in Council directs, and shall be accompanied by a written statement of the power which it is intended to employ in working the said press.

The Collector or other officer may, if he is satisfied that the applicant is in possession of the press for which the license is applied for, grant him a license; the license so granted shall expire on the 1st day of January of the next ensuing year, but, subject to such rules as may from time to time be prescribed by the Governor in Council in this behalf, shall be renewable from year to year on the first day of January; and upon the removal to another locality of a press included in any license, or renewed license, so granted, or upon change of the power employed for working the same, it shall be necessary for the licensee to apply to the Collector or other officer for a new license.

The Collector or other officer may, for reasons which he shall give to the applicant in writing under his signature, refuse to grant or to renew any such license.

License what to contain.

11. Every such license may be for one or more presses, and shall specify:

(*a*) the number of presses for which it is granted,

(*b*) the

(*b*) the locality in which the said presses are situated,

(*c*) the power to be employed for working the said presses;

and for every such license a fee shall be levied at the rate set forth in the Schedule to this Act annexed; License Fee.

12. It shall be incumbent on every applicant for any such license to lodge with the Collector, or other officer aforesaid, a pattern on cloth, parchment, or paper of the press-mark which it is intended to use at the press for which a license is applied for. Press-marks.

Every press-mark shall consist of some distinctive mark, not less than one foot square in size, or of the applicant's name, or of the name of his firm or company, in letters not less than one inch and a half long, which letters, for any press in the city of Bombay, must be in the English language.

Every press-license granted under this Act shall be deemed to be also a license for the use, at the press for which it is granted, of the press-mark of which a pattern has been lodged under this section with the Collector or other officer; and the licensee shall be bound to mark the wrapper underlying the fastenings or bands of every bale compressed by the said press, or cause the same to be marked with the said press-mark.

13. Any Magistrate or Court before whom, or which, a licensee is convicted of an offence under Section seventeen of this Act, or before whom a licensee, or any servant or agent of a licensee, is convicted of offering obstruction to an Inspector of Cotton, or to any of his subordinates, in the execution of their duty, may cancel such licensee's license, or direct that it be suspended for such period as he or it deems fit. License may be cancelled or suspended.

If,

Penalties, Offences, and Prosecutions.

Penalties when cotton is found to be fraudulently adulterated or mixed.

14. If, upon the hearing of the summons issued under Section seven of this Act, the Magistrate or Court be satisfied that any cotton seized and detained under the provisions of Section six of this Act—

(*a*) has been fraudulently or dishonestly adulterated or deteriorated, or increased in weight by mixing therewith seed, dirt, stones or other foreign matter, or by exposing it to dew or by any other means, or

(*b*) that such cotton is a mixture fraudulently or dishonestly made of cleaned and uncleaned cotton (commonly called kapás), or of different varieties or qualities in one bale,

the Magistrate or Court shall order—

that such cotton be confiscated and destroyed, or

that such cotton be confiscated, cleaned and sold, or

that such cotton be cleaned by or under the direction of the Inspector of Cotton, and that such Inspector do return such cotton when so cleaned to the person in whose possession the same was found, upon payment by him of the expenses of cleaning such cotton together with such fine as such Magistrate or Court shall direct; and that in default of such payment such cotton be sold, and the proceeds thereof, after deducting such fine and the expenses of cleaning and sale, be paid to such person as aforesaid.

Penalty for using a press without a license.

15. Whoever knowingly uses, or attempts to use, any press for the compression of cotton, or causes, or permits the same to be used, without previously obtaining a license, or a renewed or new license, in accordance with the provisions of this Act, or after

or after any such license has been refused, or cancelled, or during the period for which the same is suspended, shall be punished with fine which may extend to one thousand rupees.

16. Any person who knowingly counterfeits any press-mark which any other person has been licensed under this Act to use, or

Penalty for counterfeiting press-mark,

who marks any bale, or causes or permits the same to be marked, with a press-mark which he is not licensed to use,

and for using unlicensed press-mark.

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

17. Any licensee who neglects to mark any bale compressed at his press with the press-mark which he is licensed to use, or to cause the same to be so marked, shall be punished for every such neglect with fine which may extend to one hundred rupees.

Penalty for neglect to mark bale with press-mark.

18. All proceedings and offences under this Act shall be cognizable, subject to the provisions of any law for the time being in force for the trial of offences, by a Presidency Magistrate in the city of Bombay, and elsewhere by any Criminal Court exercising powers not inferior to those of a Second Class Magistrate: Provided always that no person shall be proceeded against on account of any such offence except by summons on information laid by an Inspector of Cotton or some other person.

Cognizance of offences.

19. It shall not be necessary in any proceeding for any offence under this Act to prove an intent to defraud any particular person.

Proof of fraudulent intention.

20. The provisions of Sections sixty-four to seventy, both inclusive, of the Indian Penal Code, shall apply to all fines imposed under this Act; and all such fines shall be recoverable in the City of Bombay in the manner prescribed by Act IV. of 1877 (The

Recovery of fines.

1877 (The Presidency Magistrates Act) or any other Act for the time being in force regulating the Police of the city of Bombay.

Miscellaneous.

Fees leviable on certain cotton.

21. A fee at such rate, not exceeding two annas, as the Government from time to time direct by notification in the *Bombay Government Gazette*, shall be levied upon every bale of cotton not belonging to the Government exported from any part of the Presidency of Bombay to any port or place. other than a port or place in British India.

Persons interested in cotton seized not affected in their civil rights and may recover expenses, &c., in consequence of seizure.

22. Nothing in this Act shall affect the civil rights of any person in any manner interested in any cotton confiscated or ordered to be cleaned and sold under the provisions of this Act; but every such person shall have the same right of action as if this Act had not been passed, and all fines, cleaning and sale charges paid, and legal and other expenses and losses incurred and sustained in consequence of the seizure and detention of such cotton and consequent thereon, shall be part of the damages recoverable in such action.

SCHEDULE (*see Section* 11).

Table of Fees leviable for Press-Licenses.

For every press for which the license is granted which is to be worked by manual labour alone	Rs. 1	0	0
Do. do. by animal or manual labour alone	„ 2	0	0
Do. do. by steam or other power ...	„ 5	0	0

BOMBAY ACT No. I. OF 1879.

(*Received the assent of the Governor of Bombay on the 24th February* 1879, *and of the Governor General on the 27th March* 1879, *and published by the Governor of Bombay on the 29th March* 1879.

An Act to facilitate the introduction of the Bombay District Municipal Act into Sind.

WHEREAS the Bombay District Municipal Act was, on the 26th day of July 1878, extended by the Government of Bombay, with the previous sanction of the Governor General in Council, in virtue of the power conferred by Section 5 of the Scheduled Districts Act, 1874, to the Province of Sind with effect from the 1st October 1878; and whereas difficulties have arisen in introducing the said Act into the said Province owing, amongst other reasons, to certain portions of the said Act having been repealed by the Repealing Act, 1876, previous to the date of the said extension; and whereas doubts are entertained as to whether the said Act did not legally apply to the said Province from the date of the publication of the assent of the Governor General thereto; and whereas it is expedient to remedy the said difficulties and to remove the said doubts; It is enacted as follows:—

Date on which Bombay Act VI. of 1873 is to be deemed to have come into force in Sind.

1. The Bombay District Municipal Act shall be deemed to have come into force in the Province of Sind on the first day of October 1878, and not at any previous time.

Certain expressions in Bombay Act VI. of 1873 defined.

2. Throughout the said Act the phrases "the date of this Act coming into force," "the date of the passing of this Act," and the like, shall, in Sind, be deemed to mean the said first day of October 1878.

"*Sind Official Gazette*" substituted for "*Bombay Government Gazette.*"

3. The words "*Sind Official Gazette*" shall, in Sind, be deemed to be and to have always been substituted for the words "*Bombay Government Gazette*" wherever they occur in the said Act.

Repeal of Act XXVI. of 1850 and other Acts in Sind.

4. Act XXVI. of 1850 and Bombay Acts II. and IX. of 1862 and I. of 1871 shall be deemed to have been repealed, in Sind, on and from the said first day of October 1878, except as to any assessment made, act done, liability incurred, money due, or proceedings commenced thereunder:

Provided that such repeal shall not take or be deemed to have taken effect in any place to which the said Acts have been applicable until six months from the said first day of October 1878, or until such date within the said period of six months as such place shall be, or shall have been, included in a Municipal District constituted under the Bombay District Municipal Act.

Section 4, clauses 1-3 of Bombay Act VI. of 1873 to what extent applicable in Sind.

5. The provisions of clauses one to three of section 4 of the Bombay District Municipal Act shall not be and shall not be deemed at any time to have been applicable to Municipalities in Sind formed under Act XXVI. of 1850, which the Commissioner in Sind may deem or may have deemed fit to declare, by notification in the *Sind Official Gazette*, Municipal Districts under the said Bombay District Municipal Act.

Any such declaration shall be deemed sufficient authority for the constitution of the Municipality to which it relates into a Municipal District under the said Act.

6. Whenever any Municipality has been so declared to be a Municipal District under the said Act, no suit, prosecution, or other proceeding to which the Municipal Commissioners appointed under Act XXVI. of 1850 were a party, and which was pending at the date on which such Municipal District was constituted, shall abate, or be in any wise affected by the operation of the said Bombay District Municipal Act or of this Act, and all decrees and orders made, and all fines and penalties imposed and incurred previous to the said date, shall be respectively enforceable and leviable, and all administrative proceedings commenced previous to the said date may be proceeded with and completed as if the said Acts had not been passed.

Saving of pending proceedings, &c., in which Municipal Commissioners under Act XXVI. of 1850 are concerned.

And the Municipality constituted under the said Bombay District Municipal Act shall in all such matters as are aforesaid occupy the place of the Municipal Commissioners aforesaid.

BOMBAY ACT No. II. OF 1879.

[*Received the assent of the Governor of Bombay on the 24th February 1879, and of the Governor General on the 22nd March 1879, and published by the Governor of Bombay on the 5th April 1879.*]

An Act to further amend Act XIII. of 1856.

WHEREAS Act XIII. of 1856 (*an Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay*) was amended, so far as concerns the Bombay City Police Force, by Bombay Act I. of 1872, and it is expedient to further amend the said Act in manner hereinafter appearing; It is enacted as follows:—

1. For the word "pay" in the Section substituted by Section 2 of Bombay Act I. of 1872, for Section seventeen of the said Act the words "salary and authorized allowances" shall be substituted. Amendment of section 17, Act XIII. of 1856.

2. For the words "upon a reduction of the Force" in Section seven of Bombay Act I. of 1872, the words "for any reason other than his own misconduct" shall be substituted. Amendment of Section 7 of Bombay Act I. of 1872.

[*Price half anna*].

BOMBAY ACT No. III. OF 1879.

[*Received the assent of the Governor of Bombay on the 24th February* 1879, *and of the Governor General on the* 10*th May* 1879, *and published by the Governor of Bombay on the* 27*th May* 1879.]

An Act to provide for the levy of Fees for the use of Government Landing-places in the Port of Kurrachee.

WHEREAS it is expedient to provide for the levy of fees for the use of the Government landing-places in the Port of Kurrachee, it is enacted as follows :—

Short Title.

1. This Act shall be called "The Kurrachee Landing and Wharfage Fees Act of 1879."

"Landing-place" defined

2. In this Act the term "landing-place" includes a bunder, wharf, pier, jetty, hard, and any place used for the landing, shipping, wharfage, cranage, or storage of goods.

The Governor in Council to fix limits of bunders, &c, and the fees to be levied.

3. It shall be lawful for the Governor in Council from time to time, by Notification in the *Bombay Government Gazette* and in the *Sind Official Gazette* :

(*a*). To determine the limits of any Government landing-place to which the provisions of this Act shall apply ;

(*b*). To fix the fees to be levied—

(1). For the landing, shipping, wharfage, cranage, storage or demurage of goods at ; and

(2). For permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at ; and

(3). For permitting vessels or boats to approach or lie alongside,

any such landing-place :

[*Price one anna.*]

Provided

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessel, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

Powers and duties under this Act by whom to be exercised and performed.

4. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder, shall be exercised and performed by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time appoint in this behalf.

Powers, privileges, and liabilities of Officers who collect fees

5. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law, for the time being in force, in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of any thing done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.

Punishment of offenders

The law for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

Tables of fees to be posted up

6. Tables of the fees leviable under this Act in the English, Sindhi and Gujaráthi languages shall be posted up in some conspicuous position at every landing-place at which such fees are leviable.

Power to make Bye-laws.

7. The Commissioner in Sind may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act:

(*a*). Regulating the use of every landing-place to which this Act applies;

(*b*) Providing

(*b*). Providing for the management of the traffic over, on and about and to and from every such landing-place; and

(*c*). Generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the *Bombay Government Gazette* and in the *Sind Official Gazette.*

Fees realized under this Act how to be applied.

8. The proceeds of all fees realized under this Act shall be applied:

(*a*). In payment of the expenses of the administration of this Act;

(*b*). In defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of the Port of Kurrachee or the interest on any moneys expended in any such acquisition or construction; and

(*c*). In maintaining and improving any existing landing-place and generally in the improvement of the said Port.

Yearly Accounts to be published.

Accounts of all receipts and expenditures under this Act shall be published once in every year in the *Bombay Government Gazette* and in the *Sind Official Gazette.*

Indemnity Section

9. The levy of wharfage dues heretofore made in the Port of Kurrachee in conformity with a Notification of the Governor in Council dated the 23rd October 1865, and published at page 1039 of the *Bombay Government Gazette* of the 26th October 1865, shall be deemed to have been lawfully made, and all officers are hereby indemnified in respect of any thing done by them under the authority of the said Notification which might have been done if the said Notification had been lawfully made, and no suit shall be maintained against Government or against any Officer of Government in respect of any thing so done.

BOMBAY ACT No. IV. OF 1879.

[*Received the assent of the Governor of Bombay on the* 24*th February* 1879, *and of the Governor General on the* 14*th April* 1879, *and published by the Governor of Bombay on the* 27*th June* 1879.]

An Act to prohibit the practice of Inoculation and to make the Vaccination of Children in the Town of Kurrachee compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the Town of Kurrachee compulsory; It is enacted as follows:—

Preliminary.

1. This Act may be cited as "The Kurrachee Vaccination Act, 1879." Short title.

It extends only to the Town of Kurrachee. Local extent.

It shall come into force on such day as the Governor in Council directs by notification in the *Bombay Government Gazette*, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context: Interpretation Section.

(1.) "Parent" includes the father and mother of a legitimate child and the mother of an illegitimate child; "Parent."

(2.) "Guardian" means any person to whom the care, nurture, or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture, or custody of any "Guardian."

[*Price—Three and a half Annas.*]
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any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

"Public Vaccinator."

(3.) "Public Vaccinator" means any vaccinator appointed under this Act, or any deputy duly authorized to act for such Public Vaccinator;

"Medical Practitioner."

(4.) "Medical Practitioner" means any person duly qualified by a diploma, degree, or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act;

"Unprotected Child."

(5.) "Unprotected Child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination.

"Animal lymph."

(6.) "Animal lymph" means vaccine taken from the calf.

Establishment.

Vaccination Districts.

3. For the purposes of this Act the Civil Surgeon of Kurrachee, or such other officer as Government directs, shall divide the Town of Kurrachee into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "Vaccination District."

Appointment of Public Vaccinators.

Public Vaccine Stations.

The Civil Surgeon, or other officer aforesaid, shall appoint a Public Vaccinator for every Vaccination District, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "Public Vaccine Stations." Every such Public Vaccinator shall be removable from office by the Civil Surgeon or other officer aforesaid.

The

The limits of the Vaccination Districts made, and the positions of the Public Vaccine Stations fixed under the provisions of this section, and the days and hours of the Public Vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under Section thirty-one of this Act.

Notification of Districts and Stations

4. Every Public Vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of ," to be posted up in some conspicuous place on or near the outer door of his dwelling house and of every public vaccine station in his district.

The Public Vaccinator to live within his district.

5. No person shall be appointed a Public Vaccinator, or act as a deputy for a Public Vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

Q ti Public Vaccinator.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of Public Vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Superintendent of Vaccination.

The Superintendent shall have, if necessary, one or more Assistants as Government may from time to time direct.

Assistant Superintendents.

Vaccination.

7. The parent or guardian of every child born in the Town of Kurrachee shall, within six months after the birth of such child, and

Parent or Guardian of children born in Kurrachee,

the

and of unprotected children brought to reside in Kurrachee,

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the Town of Kurrachee, shall, within three months after such child's arrival in the Town, or if the child be at the time of its arrival less than three months old, within six months after its birth; and

or living in Kurrachee at the date of this Act coming into force,

the parent or guardian of every unprotected child living in the Town of Kurrachee at the date of this Act coming into force and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date,

must procure their vaccination.

take it, or cause it to be taken, to a Public Vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public Vaccinator is bound to vaccinate all children brought to him.

and the Public Vaccinator to whom such child, or to whom any child under the age of fourteen years is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a Public Vaccinator or a medical practitioner, or on an earlier day, if the Public Vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the Public Vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation;

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Public Vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

9. If

9. If any Public Vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule A, hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

If child be unfit for vaccination, certificate in Form A to be given.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a Public Vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C, hereto annexed, according to the provisions of Section eleven of this Act, if warranted by the result.

Which shall remain in force for two months, but shall be renewable.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some Public Vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

When successive postponement certificates are to be granted.

10. If any Public Vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B, hereto annexed, or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of insusceptibility to successful vaccination.

11. Every Public Vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according

Provision for giving certificates of successful vaccination.

according to the form of Schedule C, hereto annexed, or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination must ordinarily be performed with animal lymph.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal lymph;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable, to direct, by notification in the *Bombay Government Gazette* :—

(*a*) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(*b*) that the Public Vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of Section eight of this Act for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

No fee to be charged for vaccination at a public vaccine station or for certificates.

13. No fee or remuneration shall be charged by any Public Vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine station.

Proviso.

But it shall be lawful for a Public Vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine station.

Registration.

Registrar of Births to give notice of the requirement of vaccination.

14. On the registration of the birth of any child under the provisions of the bye-laws of the Kurrachee Municipality, or of any other law for the time being in force, the Registrar shall deliver to the

person

person giving information of such birth a printed notice in the form of Schedule D, hereto annexed, or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of all certificates to be transmitted to the Registrar.

15. Every Public Vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B, and C, hereto annexed, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the Town of Kurrachee, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

Registrar to keep a vaccination-notice and certificate book;

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also a duplicate Register of Births, with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the Register of births required to be kept by him under the provisions of the Bye-laws of the Kurrachee Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C, hereto annexed, received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

18. He

and also a Register of Postponed Vaccinations.

18. He shall also keep a Register of Postponed Vaccinations in the form of Schedule E, hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A, hereto annexed, together with the date of such duplicate certificate, and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the Register of Births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under Section twenty-nine of this Act, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

Prosecutions and Offences.

Penalty for inoculating,

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and for entering the Town of Kurrachee after inoculation.

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the Town of Kurrachee before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion;

and whoever having the charge, custody, or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Kurrachee;

shall

shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to three months, or to fine which may extend to two hundred rupees, or with both.

Magistrate may make an order for the vaccination of any unprotected child under 14 years.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the Town of Kurrachee, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order, directing such child to be vaccinated within a certain time.

Penalty for disobedience of such order

If, at the expiration of such time, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made, shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine, which may extend to fifty rupees:

Proviso for costs to person improperly summoned.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing a child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning

meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for neglect to take child to be vaccinated, &c.

23. Whoever, in contravention of this Act,

(*a*) neglects, without reasonable excuse, to take, or cause a child to be taken to be vaccinated, or after vaccination to be inspected; or

(*b*) at any time during the period for which any notification made under Section 12 of this Act is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated; or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births;

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs, or makes or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code, for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any Public Vaccinator accepts, or obtains, or agrees to accept, or attempts to obtain from any person any fee, or remuneration, contrary to the provisions of Section thirteen of this Act, he shall be deemed to have committed an offence punishable under Section 161 of the Indian Penal Code.

Cognizance of offences under this Act.

26. All offences under this Act shall be cognizable by a Magistrate of the first class subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

27. In

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the Register of Births or the Register of Postponed Vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Prosecution for neglect.

28. The provisions of Sections sixty-four to seventy, both inclusive, of the Indian Penal Code shall apply to all fines imposed under this Act.

Recovery of Fine.

Miscellaneous.

29. The Civil Surgeon of Kurrachee, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the Public Vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

Books and forms.

30. It shall be the duty of the Registrar appointed under the Bye-laws of the Kurrachee Municipality to show in any Annual General Abstract of Births and Deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Annual Return to be made of the number of children vaccinated, &c.

31. The

The Civil Surgeon of Kurrachee to make rules

31. The Civil Surgeon of Kurrachee, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules or issue orders consistent with this Act:

(*a*) providing for the appointment of deputies of Public Vaccinators, when necessary;

(*b*) determining the qualifications to be required of Public Vaccinators, or their deputies, and regulating the grant of certificates of qualification under section five;

(*c*) for the guidance of Public Vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette.*

SCHEDULE A.

(*See Section* 9.)

I, the undersigned, hereby certify that in my opinion , the child of , resident at , in Kurrachee, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.—
Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE B.

(*See Section* 10.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the

the child of , residing at , in Kurrachee (*or* that the child has already had small-pox, *as the case may be*,) and I am of opinion that the said child is insusceptible of successful vaccination.—Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE C.

(*See Section* 11.)

I, the undersigned, hereby certify that , the child of age , resident at , in Kurrachee, has been successfully vaccinated by me.—Dated this day of 18 .

(Signature of Medical Practitioner or Public Vaccinator.)

SCHEDULE D.

(*See Section* 14.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

Take notice that the child of *(here enter the mother's name)* whose birth has this day been registered, must be vaccinated under the provisions of the Kurrachee Vaccination Act, 187 , within six months from the date of its birth, under a penalty of ten rupees.

The public vaccine station nearest to the house in which the child was born is at No.

The

B 212—3

The days and hours for vaccination at that station are as follows :—

(Here insert the days and the hours when the Public Vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the Public Vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the Public Vaccinator, or if you employ a private medical practitioner to vaccinate the child by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a Public Vaccinator free of charge.

Dated the of 187 .

Registrar of Births.

SCHEDULE E.

(*See Section* 18.)

Register of Postponed Vaccinations for the District of in Kurrachee.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.		Signature of Registrar.
		Year.	No. of Entry in Register.			
				1868		
1	Venayek Pandurang...	1868	12	May	10	H. O.

BOMBAY ACT No. V. OF 1879.

Received the assent of the Governor of Bombay on the 26th April 1879, and of the Governor-General on the 30th June 1879, and published by the Governor of Bombay on the 17th July 1879.]

The Bombay Land Revenue Code.

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Price One Rupee and Five Annas.]

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BOMBAY ACT No. V. OF 1879.

[*Received the assent of the Governor of Bombay on the 26th April* 1879, *and of the Governor-General on the 30th June* 1879, *and published by the Governor of Bombay on the 17th July* 1879.]

An Act to consolidate and amend the Law relating to Revenue Officers and the Land Revenue in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to Revenue Officers, and to the assessment and recovery of Land Revenue, and to other matters connected with the Land Revenue Administration; it is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Bombay Land Revenue Code, 1879." Short Title.

It extends to the whole of the Presidency of Bombay except the Scheduled Districts, as defined by Act XIV. of 1874, and the City of Bombay. Local extent.

So much of section 2 as relates to Bombay Act I. of 1866 shall come into force from such date as the Governor in Council shall, by notification in the *Bombay Government Gazette*, direct. The rest of this Act shall come into force at once. Commencement.

2. The Regulations and Acts mentioned in the Schedule A hereto annexed are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them. Enactments repealed.

All references made in any Bombay Regulation or in any Act of the Governor of Bombay in Council, or in any Act of the Governor-General in Council passed before the coming into

into operation of the Indian Councils Act, 1861, to any enactment hereby repealed, shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued, and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued, and published hereunder.

And all proceedings now pending, which have been commenced under any enactment hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation Section.

3. In this Act, unless there be something repugnant in the subject or context:

"revenue officer."

(1.) "revenue officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts, or records connected therewith;

"survey officer."

(2.) "survey officer" means an officer appointed under, or in the manner provided by section 18 of this Act;

"Collector."

(3.) the word "Collector" means the Collector of the District;

"Land."

(4.) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory;

"estate."

(5.) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same;

"survey number."

(6.) "survey number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey records of the village, town, or city in which it is situated, and includes a recognized share of a survey number;

"recognized share of a survey number."

(7.) "recognized share of a survey number" means a sub-division of a survey number separately assessed and registered;

(8) "building

(8). "building site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon; "building site."

(9). "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, vacant strip of ground, or other object, whether natural or artificial, set up, employed, or specified by a survey officer, or other revenue officer having authority in that behalf, in order to designate the boundary of any division of land; "boundary-mark."

(10). "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting; "to hold land."

(11). "holder" or "landholder," signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public. It includes a mortgagee vested with a right to possession; "holder" "landholder."

(12). "holding" signifies land over which such right extends; "holding."

(13). "superior holder" signifies a holder entitled to receive from other holders rent or land-revenue on account of lands held by them, whether he be accountable or not for the same, or any part thereof to the Government; "superior holder."

(14). "inferior holder" signifies a holder liable to pay the rent or land-revenue to a superior holder, whether on account of such superior holder or Government; "inferior holder."

(15). "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord," or from his landlord's predecessor in title; "tenant," "landlord."

(16). "occupant" signifies a holder of unalienated land, or where there are more holders than one, the holder having the highest right in respect of any such land, "occupant."

or where such highest right vests equally in more holders than one, any one of such holders;

(17). "registered occupant" signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government records as holding unalienated land whether in person or by his co-occupant tenant, agent, servant, or other legal representative; "registered occupant."

(18). "occupancy"

"occupancy." (18). "occupancy" signifies the sum of the rights vested in an occupant as such;

"alienated." (19). "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially, to the ownership of any person;

"village, town, or city." (20). the words "village, town, or city" include all lands belonging to any village, town, or city;

"revenue year." "year." (21). the words "revenue year" or "year" means the period from, and exclusive of the 31st July of one calendar year until, and inclusive of, the 31st July in the next calendar year;

"section." (22). "section" means a section of this Act;

"this chapter." (23). the words "this chapter" mean the chapter of this Act in which those words occur.

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE OFFICERS.

Chief controlling authority in revenue matters. 4. The chief controlling authority in all matters connected with the land-revenue is vested in the Commissioner, subject to the Governor in Council.

Extent of territories under the Commissioners. There shall be one or more Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly notified.

The territories under a Commissioner to be a division. The territories under each Commissioner shall form, and be called, a division.

Present divisions. The present divisions shall continue as they are for the purposes of this Act, until altered by the Governor in Council.

Appointments and duties of Commissioners. 5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers, or duties of appeal, superintendence, and control within their

their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government.

6. Each Commissioner shall have such number of Assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners to whom they are respectively subordinate may from time to time direct.

Assistants to Commissioners.

7. Each division, under the control of the Commissioner, shall be divided into such number of districts with such limits as may from time to time be prescribed by a duly published order of the Governor in Council.

A division to be divided into districts.

And each such district shall consist of such number of tálukas, and each táluka shall consist of such number of máháls and villages, as may from time to time be prescribed in a duly published order of the Governor in Council.

A district to consist of tálukas comprising such number of máháls and villages as Government may direct.

The present zillahs or collectorates shall form districts, and the present tálukas shall remain as they are, for the purposes of this Act, until altered by the Governor in Council.

Present zillahs and tálukas.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector of the District, and who shall be subordinate to the Commissioner of his division and may exercise, throughout his district, all the powers, and discharge all the duties conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

Collector of the District.

9. The Governor in Council may appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," &c., as may be expressed in the order of their appointment.

Assistant and Deputy Collectors.

All such Assistant and Deputy Collectors and all other officers employed in the land-revenue administration of the district shall be subordinate to the Collector.

To be subordinate to the Collector.

10. Subject to the general orders of Government, a Collector may place any of his Assistants or Deputies in charge of the revenue administration of one or more of the tálukas in his district, or may himself retain charge thereof.

Their duties and powers.

Any

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII. of this Act, perform all the duties and exercise all the powers conferred upon a Collector of a district by this Act or any other law at the time being in force, so far as regards the táluka or tálukas in his charge:

Provided that the Collector may, whenever he may deem fit, direct any such Assistant or Deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other Assistant or Deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of tálukas, the Collector shall, under the general orders of Government, assign such particular duties and powers as he may from time to time see fit.

Collector of the district in case of temporary vacancy.

11. If the Collector is disabled from performing his duties, or for any reason vacates his offices or leaves his district, or dies, his Assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the Collector of the district under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector, and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

The Mámlatdár, his appointment.

12. The chief officer entrusted with the local revenue administration of a táluka shall be called a Mámlatdár. He shall be appointed by the Commissioner of the division in which his táluka is situated.

His duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to, him by the Collector under the general or special orders of Government. He shall continue to perform the duties and exercise the powers at present performed and exercised by him after the passing of this Act, until such time as he is otherwise directed by competent authority.

13. Whenever

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint a Mahálkari to be in charge of a defined portion of a táluka; and subject to the orders of Government and of the Commissioner, the Collector may assign to him within his local limits such of the duties and powers of a Mámlatdár as he may from time to time see fit, and may also from time to time direct whether the Mahálkari's immediate superior shall, for the purposes of section 203 of this Act, be deemed to be the Mámlatdár or the Assistant or Deputy Collector, or the Collector in charge of the táluka.

The Mahálkari, his duties and powers.

14. It shall be competent to a Mámlatdár or Mahálkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties: provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mámlatdár or Mahálkari.

Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties.

The portion of a táluka in the charge of a Mahálkari shall be called a Máhál. The present máháls shall remain as they are, for the purposes of this Act, until altered by the Governor in Council.

The portion of a táluka in charge of a Mahálkari to be called a Máhál.

15. If a Mámlatdár or Mahálkari is disabled from performing his duties, or for any reason vacates his office, or leaves his táluka or Máhál, or dies, such subordinate as may be designated by orders to be issued from time to time on this behalf by the Collector, shall succeed temporarily to the said Mámlatdár's or Mahálkari's office, and shall be held to be the Mámlatdár or Mahálkari under this Act until the Mámlatdár or Mahálkari resumes charge of his táluka or máhál, or until such time as a successor is duly appointed and takes charge of his appointment.

Mámlatdár or Mahálkari in case of temporary vacancy.

16. In villages where no hereditary Patel or Village Accountant exists, it shall be lawful for the Collector under the general orders of Government and of the Commissioner to appoint a stipendiary Patel or a Village Accountant who shall perform respectively all the duties of hereditary Patels or Village Accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate revenue officers.

Stipendiary Patel and Village Accountant to be appointed where no hereditary Patel or Village Accountant exists.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of Patels and Village Accountants in any alienated or other villages.

Saving the rights of holders of alienated villages.

17. Subject

Village Accountant to keep such records as he may be required to keep by the Collector.

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe from time to time what registers, accounts, and other records shall be kept by the Village Accountant; and pending the first issue of orders under this section the Village Accountant shall continue to keep all such registers, accounts, and other records as he may hitherto have been required to keep.

And to prepare public writings.

It shall also be the duty of the Village Accountant to prepare, whenever called upon by the Patel of his village, or by any superior revenue or police officer of the táluka or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

Survey Officers.

18. For the purposes of Chapters VIII., IX. and X. of this Act, the Governor in Council may appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioner of Survey," "Superintendent of Survey," "Survey Settlement Officers," and "Assistant," or otherwise as may seem requisite, and shall be subordinated the one to the other in such order as the Governor in Council may direct.

Their duties and powers.

Subject to the orders of the Governor in Council the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

Combination of offices.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this chapter, or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Certain officers' appointments to be notified.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Acting appointments.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments.

21. Subject to rules or orders made under section 214, the appointment of all members of the establishments of the undermentioned

undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, viz. :—

The Commissioners,
„ Collectors,
„ Commissioner of Survey,
„ Superintendent of Survey,
„ Survey Settlement Officer.

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this chapter shall be made in their respective departments by the Collector and the Superintendent of Survey, provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

Seals.

22. The Governor in Council shall from time to time by notification prescribe what revenue officers shall use a seal, and what size and description of seal shall be used by each of such officers.

Pending the issue of the first orders under this section, the seals hitherto used shall continue to be used by such officers as have used them.

CHAPTER III.

Of the Security to be furnished by certain Revenue Officers and the Liability of Principals and Sureties.

Governor in Council to direct what officers shall furnish security, and to what amount.

23. It shall be lawful for Government to direct that such revenue officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government paper duly endorsed, accompanied by a power to sell, or in the form contained in Schedule B. to this Act.

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

Fresh or additional security.

24. The Collector or the Superintendent of Survey may, at any time after security has been given, by a revenue officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which larger security is required, or for other sufficient

sufficient reason, demand fresh or additional security, and in case of the officer failing to give such security within one month after its being required of him, may suspend or dismiss him: provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section.

Demands for money, papers, &c., to be made known in writing to the person concerned.

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any revenue officer or on any person formerly employed as such in his department or district for public money or papers or other Government property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

Who may be arrested and confined in jail if he fail to produce them.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property as directed, he may cause him to be apprehended, and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Provided that no person shall be kept in confinement more than a month.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue;

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land-revenue from defaulters, and for the purpose of recovering public papers or other property appertaining to Government may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter 27 of the Criminal Procedure Code (Act X. of 1872).

and search warrant may be issued for recovery of papers or property.

Persons in possession of public moneys, &c., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector

tor, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against:

Surety to be liable in the same manner as principal.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal, shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security bond executed by him or them.

Extent of liability.

And provided also, that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

Sureties not liable to imprisonment, if penalty be paid.

28. If an officer or other person as aforesaid or his surety or sureties against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner.

An officer or surety in jail may, by furnishing certain security, obtain his release.

29. The liability of the surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23, and until his bond is cancelled.

Liability of surety not affected by death of principal or by his taking a different appointment.

The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which Government may have against the deceased, in the same way as they would be for similar claims made by an individual.

Liability of heirs of deceased officer.

30. Any surety, whether under a separate or joint bond, may withdraw from his surety ship at any time on his stating, in writing, to the officer to whom the bond has been given, that he desires so to withdraw; and his responsibility under the

How surety may withdraw from further liability.

the bond shall cease after sixty days from the date on which he gives such writing as to all demands upon his principal concerning moneys, papers, or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT.

Prohibited acts.

31. No revenue officer shall, except with the express permission of Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,

Not to trade.

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;

Not to purchase at public sale.

(2) purchase or bid either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others for any property which may under the provisions of this Act or of any other law for the time being in force be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed;

Not to be concerned in the revenue.

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed;

and no revenue officer shall

Not to make private use of public money or property

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

Not to make or receive undue exactions or presents.

(5) demand or receive under the colour or by the exercise of his authority as such revenue officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

32. Subject

32. Subject to rules or orders made under section 214, all revenue officers may be fined, reduced, suspended, or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty, or other misconduct by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21:

Power of fining, reducing, suspending, and dismissing in whom to vest.

Provided that, excepting Mámlatdárs, no revenue officer, whose monthly salary exceeds Rs. 250, shall be fined, suspended, reduced, or dismissed except by order of the Governor in Council.

A revenue officer whose monthly salary exceeds Rs. 250, to be fined, &c., only by order of the Governor in Council.

33. When any revenue officer passes an order for fining, reducing, suspending, or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the language of the district or in English.

All such orders to be made in writing.

34. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

Fine not to exceed two months' pay;

All fines inflicted under this chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land-revenue are recoverable under this Act.

And how recovered.

35. If the Collector or Superintendent of Survey, whether of his own motion, or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending, or dismissing any revenue officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or

Appeals.

if any authority superior to the Collector or Superintendent of Survey pass any such order against a revenue officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty-five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

36. Nothing

An officer's liability to criminal prosecution not affected by this Act.

36. Nothing in this chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged.

Officer may be suspended during trial, and subsequently suspended, reduced, or dismissed.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he have been found guilty or not.

CHAPTER V.

Of Land and Land Revenue.

Land.

All public roads, &c., and all lands which are not the property of others belong to Government.

37. All public roads, lanes and paths, the bridges, ditches, dikes, and fences, on, or beside the same, the bed of the sea and of harbours and creeks below high-water-mark, and of rivers, streams, nallas, lakes, and tanks, and all canals, and water-courses and all standing and flowing water, and all lands wherever situated, which are not the property of individuals, or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government; and it shall be lawful for the Collector, subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public, or of individuals legally subsisting.

Explanation.—In this section "high-water-mark" means the highest point reached by ordinary spring-tides at any season of the year.

Lands may be assigned for special purposes, and when so assigned shall not be otherwise appropriated without sanction of the Commissioner.

38. Subject to the general orders of Government, it shall be lawful for survey officer whilst survey operations are proceeding under Chapter VIII. of this Act, and at any other time for the Commissioner, to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages for free pasturage for the village cattle, for forest reserves, or for any other public or municipal purpose; and lands assigned specially for

for any such purpose shall not be otherwise appropriated or assigned without the sanction of the Commissioner; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

39. The right of grazing on free pasturage lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either generally or in any particular instance prescribed by the Collector with the sanction of the Commissioner. The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

Regulation of use of pasturage.

Trees.

40. In villages, or portions of villages of which the original survey settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any survey officer, whether by express order made at, or about the time of such settlement, or under any rule, or general order in force at the time of such settlement, or by notification made and published at, or at any time after such settlement, shall be deemed to have been conceded to the occupant. But in the case of settlements completed before the passing of Bombay Act I. of 1865, this provision shall not apply to teak, blackwood or sandalwood trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

Concession of Government rights to trees in case of settlements completed before the passing of this Act.

In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land except in so far as any such rights may be reserved by Government, or by any survey officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey settlement of the district in which such village or portion of a village is situate.

Ditto in the case of settlements completed after the passing of this Act.

When permission to occupy land has been, or shall hereafter be granted after the completion of the survey settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land which may not have been or which

Ditto in case of land taken up after completion of settlement.

which shall not hereafter be expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or about the time of the original survey settlement of the said village or portion of a village.

Government trees and forests.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brush-wood, jungle, or other natural product, growing on land set apart for forest reserves under section 32 of Bombay Act I. of 1865, or section 38 of this Act, and to all trees, brushwood, jungle, or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle, or other natural product, shall be preserved or disposed of in such manner as Government may from time to time direct.

Road side trees.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of Government, or at the expense of Local Funds, vest in Government. But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the loppings of such trees, shall also vest in the said holder; provided that the trees shall not be lopped except under the orders of the Collector.

If the holder of any land in which such trees are growing shall so desire and shall make an application to the Collector for the purpose at any time within two years from the date on which this Act shall come into operation, the Collector shall deduct the strip of land covered by the said trees from his holding and remit thenceforward the proportionate amount of land-revenue due upon the strip so deducted. Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

Recovery of value of trees, &c., unauthorizedly appropriated.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove any other natural product which is the property of Government, shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land-revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land, or otherwise; and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

The

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

Regulation of supply of firewood and timber for domestic or other purposes.

44. In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut firewood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct. In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

Land Revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land-revenue to Government according to the rules hereinafter enacted, except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

And special exemption may in case of necessity be over ruled for a time.

But nothing in this Act shall be deemed to affect the power of the Legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land-revenue.

46. All alluvial lands, newly-formed islands, or abandoned river beds which vest, under any law for the time being in force, in any holder of alienated land shall be subject in respect of liability to the payment of land-revenue to the same privileges, conditions, or restrictions as are applicable to the original holding in virtue of which such lands, islands, or river beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands, or river beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

Assessment of land-revenue in cases of diluvion.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council, to a decrease of assessment if any portion thereof, not being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvion.

The

The word "holding" in this section shall be deemed to mean a survey number or any division of land on which a distinct or aggregate assessment has been fixed.

Land-revenue upon what description of lands chargeable.

48. The land-revenue leviable under the provisions of this Act shall be chargeable:

(*a.*) upon land appropriated for purpose of agriculture;

(*b.*) upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c.*) upon land appropriated for building sites.

Assessment subject to variation if purpose for which land is held is changed.

Land held rent-free for one purpose liable to assessment if used for another purpose.

And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired. And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Collector or for a survey officer, subject to rules or orders made in this behalf under section 214 to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Commuted assessment of land indirectly taxed to the State.

49. When it has been customary to levy any special or extra cess, fine, or tax, however designated, from any holder of land, which though nominally wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine, or tax been indirectly taxed to the State,

And of land liable to occasional assessment.

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated,

the said assessment, cess, fine, or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be a fair equivalent of the assessment, cess, fine, or tax for which

which it is substituted, and shall not be in excess the assessment to which the land would be ordinarily subject, if no right to exemption existed in respect thereof.

Superior holder may recover commuted assessment from inferior holder

50. Whenever any such cess, fine, or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Excess of assessment may be laid on land inadequately assessed held with it.

51. When it has been customary to levy a larger revenue under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Assessment by whom to be fixed.

52. On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands:

Proviso.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.

Register of alienated lands.

53. A Register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands, the alienation of which has been established or recognized under the provisions of any law for the time being in force; and when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said Registrar, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

54. The

The word "holding" in this section shall be deemed to mean a survey number or any division of land on which a distinct or aggregate assessment has been fixed.

Land-revenue upon what description of lands chargeable.

48. The land-revenue leviable under the provisions of this Act shall be chargeable:

(*a.*) upon land appropriated for purpose of agriculture;

(*b.*) upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c.*) upon land appropriated for building sites.

Assessment subject to variation if purpose for which land is held is changed.

Land held rent-free for one purpose liable to assessment if used for another purpose.

And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired. And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment, if at any time it is devoted to any other purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Collector or for a survey officer, subject to rules or orders made in this behalf under section 214 to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Commuted assessment of land indirectly taxed to the State.

49. When it has been customary to levy any special or extra cess, fine, or tax, however designated, from any holder of land, which though nominally wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine, or tax been indirectly taxed to the State,

And of land liable to occasional assessment.

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated,

the said assessment, cess, fine, or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be a fair equivalent of the assessment, cess, fine, or tax for which

which it is substituted, and shall not be in excess the assessment to which the land would be ordinarily subject, if no right to exemption existed in respect thereof.

50. Whenever any such cess, fine, or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Superior holder may recover commuted assessment from inferior holder

51. When it has been customary to levy a larger revenue under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Excess of assessment may be laid on land inadequately assessed held with it.

52. On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands:

Assessment by whom to be fixed.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.

Proviso.

53. A Register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands, the alienation of which has been established or recognized under the provisions of any law for the time being in force; and when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said Registrar, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Register of alienated lands.

54. The

Settlement of assessment to be made with the holder directly from Government. Or if he is absent and have left no agent with the next holder.

54. The settlement of the assessment of each portion of land, or survey number, to the land-revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

If the said person be absent, and have left no known authorized agent in the district, so that the settlement of the assessment cannot be concluded with him, such settlement may be made with the person holding under him, or in occupation of the land.

Rates for the use of water.

55. The Governor in Council may authorize the Collector or the officer in charge of a survey or such other officer as he deems fit to fix such rates as he may from time to time deem fit, to sanction for the use, by landholders and other persons, of water, the right to which vests in Government, or which has been made available in consequence of the construction, improvement, or repair of any irrigational or other work by or at the instance of Government. Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land-revenue.

Land-revenue to be a paramount charge on the land.

56. Arrears of land-revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the occupancy or alienated holding, freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in any wise subsisting as against such occupant, or holder, or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under section 214.

Forfeited holding may be taken possession of and otherwise disposed.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of the land embraced within such holding and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Receipts to be granted by revenue officers for payments of land-revenue

58. Every revenue officer receiving a payment of land-revenue shall give a written receipt for the same.

And

And every superior holder of an alienated village, or of an alienated share of a village, shall give a written receipt for every payment of rent or land-revenue made to him by an inferior holder, and every such receipt shall be countersigned by the village accountant, if there be any.

And by certain superior holders for payments of rent or revenue.

59. Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector shall be liable to a fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such inquiry may at any time be instituted by the Collector of his own motion without any complaint being preferred to him.

Penalty for failure to grant receipts.

CHAPTER VI.

Of the Occupation of Unalienated Land and the Rights of Occupants.

Occupation.

60. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mámlatdár or Mahálkari.

Written permission of Mámlatdár or Mahálkari required previous to taking up unoccupied land.

61. Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

Penalties for unauthorized occupation of land.

if the land which he unauthorizedly occupies forms part of an assessed survey number, pay the assessment of the entire number for the whole period of his occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land appropriated to the same purpose;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules or orders made in this behalf under section 214, if he have appropriated it to any non-agricultural purpose.

The

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for an incomplete portion of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop he may have raised on the land shall be liable to forfeiture, and any building or other construction he may have erected thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct.

Occupancy right to be paid for and to be liable to certain conditions.

62. It shall be competent to the Collector, subject to such orders as may from time to time be made by the Governor in Council, to require the payment of a certain price for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 60.

Price to include price of trees.

The price of an occupancy shall include the price of the Government right to all trees not specially reserved under the provisions of section 40, and shall be recoverable as an arrear of land-revenue.

Occupancy of alluvial land which vests in Government.

63. When it appears to the Collector that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed.

The price of an occupancy so offered shall not exceed three times the annual assessment of the land of which the occupancy is offered.

If the said occupant shall refuse such occupancy, the Collector may dispose of the same under the last preceding section without any restrictions as to the price thereof.

Temporary right to alluvial lands of small extent

64. When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth

one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section.

The word "holding" in this section shall be deemed to mean a survey number, or any division of land on which a distinct or aggregate assessment has been fixed.

Occupants', Rights.

Uses to which occupant of land for purposes of agriculture may put his land.

65. An occupant of land appropriated for purposes of agriculture is entitled by himself, his servants, tenants, agents, or other legal representatives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient occupation for the purposes aforesaid.

Procedure if the occupant wishes to apply his land to any other purpose.

But if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Collector's permission shall in the first place be applied for by the registered occupant. The Collector on receipt of such application shall at once furnish the application with a written acknowledgment of its receipt, and after inquiry may either grant or refuse the same; but if the applicant receive no answer within three months from the date of the said acknowledgment, the Collector's permission may be deemed to have been granted. Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the registered occupant.

Fine to be levied for such appropriation in addition to special assessment.

When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Penalty for so appropriating land without permission.

66. If any such land be so appropriated without the permission of the Collector being first obtained, or before the expiry of three months from the date of the aforesaid acknowledgment, the occupant and any tenant, or other person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so appropriated, and from the entire field or survey number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so appropriated, such fine as the Collector may, subject to the general orders of Government, direct.

Any

Co occupant or tenant responsible to registered occupant in damages.

Any co-occupant or any tenant of any occupant or any other person holding under or through an occupant, who shall without the registered occupant's consent appropriate any such land to any such purpose, and thereby render the said registered occupant liable to the penalties aforesaid, shall be responsible to the said registered occupant in damages.

Permission may be granted on terms.

67. Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms as may be agreed on between Government and the registered occupant.

Occupant's rights are conditional.

68. An occupant is entitled to the use and occupation of his land for the period, if any, to which his occupancy is limited, or if the period is unlimited, or a survey settlement has been extended to the land, in perpetuity conditionally on the payment of the amounts due on account of the land-revenue for the same, according to the provisions of this Act, or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms lawfully annexed to his occupancy.

Reservation of right of Government to mines.

69. The right of Government to mines and mineral products in all unalienated land is and is hereby declared to be expressly reserved:

Proviso.

Provided that nothing in this section shall be deemed to affect any subsisting rights of any occupant of such land in respect of such mines or mineral products.

Decrees or order of competent Courts to be given effect to.

70. If by a decree or order of a competent Court it shall be adjudged that the occupant is an inferior holder under another person, or that the occupancy is vested in another person, or if in the execution of such a decree or order the interest of the occupant in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale, or other transfer, be deemed to be the occupant and be dealt with accordingly, and on written application being made to the Collector for the purpose, such change shall be made in the entry of the registered occupant's name as the circumstances require.

Name of heir to be registered when registered occupant dies.

71. On the death of a registered occupant, the Collector shall cause the name of his eldest son, or other person appearing to be his heir, or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the registered occupant, and, subject to the provisions of the last preceding section, shall be dealt with accordingly:

But,

But if at any time any person shall, by production of a certificate of heirship, or of a decree or order of a competent Court, satisfy the Collector that he is entitled to be the registered occupant in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the Government records to be amended accordingly. When entry to be amended.

72. If an occupant who is either a Hindu, a Muhamadan or a Budhist, dies intestate and without known heirs, the Collector shall dispose of his occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land-revenue, and the law at the time in force concerning property left by Hindus, Muhamadans or Budhists, dying intestate and without known heirs shall not be deemed to apply to the said occupancy, but only to the proceeds of such sale after deducting all arrears of land-revenue due by the deceased to Government and all expenses of the said sale. Intestate occupancy or holding to be sold.

73. The right of occupancy shall be deemed an heritable and transferable property subject to the provisions contained in section 56 or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become occupant shall have been accepted by the Collector. Right of occupancy to be transferable and heritable.

Relinquishment of Occupancy.

74. An occupant may, by giving written notice to the Mámlatdár or Mahálkari, relinquish his occupancy, either absolutely or in favour of a specified person, provided that such relinquishment apply to the entire occupancy or to whole survey numbers, or recognized shares of survey numbers. An absolute relinquishment shall be deemed to have effect from the close of the current year, and notice thereof must be given before the 31st March in such year, or before such other date as may be from time to time prescribed in this behalf for each district by the Governor in Council. A relinquishment in favour of a specified person may be made at any time. Occupant may relinquish his occupancy.

When there are more occupants than one, the notice of relinquishment must be given by the registered occupant; and the person, if any, in whose favour an occupancy is relinquished, or if such occupancy is relinquished in favour of more persons than one, the principal of such persons must enter into a written agreement to become the registered occupant, and his name shall thereupon be substituted in the records for that of the previous registered occupant.

75. When

Relinquishment of lands paying a lump assessment.

75. When a lump assessment is fixed upon several fields or survey numbers in the aggregate it shall not be lawful for the occupant to relinquish as aforesaid any one or more of such fields or survey numbers except with the previous consent of the Collector. It shall be competent to the Collector to grant or refuse his consent; if he grants it, the occupancy shall be divided, and the Collector shall determine the proportional amount of land-revenue to be paid by each portion of it, and the original occupant, and the person, if any, in whose favour he relinquishes a portion of his occupancy, shall be held liable for the revenue severally assessed on their portions.

Relinquishment of land described in para. 1 of section 49.

76. The provisions of the two last sections shall apply, as far as may be, to the holders of alienated land : provided that,

(*a*) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49 until the commuted assessment, payable in respect of such portion of land, has been determined under the provisions of the said section; and that

Relinquishment of land described in section 51.

(*b*) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Saving of operation of sections 75 and 76 in certain cases.

78. Nothing in sections 75 and 76 shall affect :

(*a*) the responsibility of any share in a village for the land revenue of which the sharers are all, according to law or the custom of the village, jointly responsible, or

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government.

79. The

79. The registered occupant or the holder of alienated land shall continue liable for the land-revenue due on the occupancy or alienated holding and for all other lawful demands of Government in respect of the same, until such time as the occupancy or alienated holding is relinquished, or transferred, under any of the provisions of this Act, to the name of any other person; and the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an occupancy or alienated holding has been assigned, unless the transfer has been recorded in the revenue records in accordance with the foregoing provisions.

Occupant or holder to continue liable for all demands until the occupancy or holding is duly relinquished or transferred.

Remedies against Forfeiture of Occupancies.

80. In order to prevent the forfeiture of an occupancy under the provisions of section 56, or of any other law for the time being in force, through non-payment by the registered occupant of the land-revenue due on account thereof, it shall be lawful for any co-occupant, tenant, mortgagee, or other person interested in the continuance of the occupancy to pay on behalf of such registered occupant all sums due on account of land-revenue, and for the Collector to receive the same. And in any such case the Collector may give to the person who has paid the land-revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in occupation of parts of a field or survey number as he might legally have given had the persons so paying been the registered occupants:

To prevent forfeiture of occupancy, certain persons other than the registered occupant may pay the land-revenue.

Collector may assist such persons in recovering the revenue from other parties liable therefor.

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

Proviso.

81. If it shall appear to the Collector that a registered occupant has failed to pay land-revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants, or other persons interested in the continuance of the occupancy, or that a sale of the occupancy will operate unfairly to the prejudice of such co-occupants, or other persons, it shall be lawful for him, instead of selling the occupancy, to forfeit only the said registered occupant's interest in the same and to substitute the name of any such co-occupant or other person as registered occupant thereof in the revenue records, on his payment of all sums due on account of land-revenue for the occupancy; and such person so becoming the registered occupant shall have the rights and remedies with respect to all other persons in occupation provided for by section 86.

Collector may in certain cases make co-occupant or other person the registered occupant instead of selling occupancy for realization of land-revenue.

Suspension

Suspension of certain Provisions of this Chapter.

Governor in Council empowered to suspend operation of section 60 or 74.

82. It shall be lawful for the Governor in Council by notification in the *Bombay Government Gazette* from time to time:

(*a*) to suspend the operation of section 60 or 74, or of both, within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(*b*) to cancel any such notification.

During the period for which any notification under the above clause (*a*) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

CHAPTER VII.

Of Superior and Inferior Holders.

Tenants' Rights.

Amount of rent payable by tenant.

83. A person placed, as tenant, in possession of land by another, or, in that capacity, holding, taking, or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services agreed upon between them; or in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant, or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Presumption as to tenure.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, received, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Nothing.

Nothing contained in this section shall affect the right of the landlord, (if he have the same either by virtue of agreement, usage, or otherwise), to enhance the rent payable, or services renderable by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively originally fixed or duly enhanced as aforesaid.

Saving clause.

84. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the 31st March.

Annual tenancy terminates on the 31st March.

An annual tenancy shall require for its termination a notice given in writing by the landlord to the tenant, or by the tenant to the landlord at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E, or to the like effect.

Three months' notice of termination of tenancy to be given by landlord to tenant, or *vice versâ*.

85. It shall be incumbent on every superior holder of an alienated village and on every superior holder of an alienated share of a village in which there exists an hereditary pátel and village accountant, to receive his dues on account of rent or land-revenue from the inferior holders through the said village officers.

Superior holders' dues to be collected by hereditary Village Officer and not direct.

Any such superior holder demanding or receiving payment from any inferior holder of any rent or land-revenue otherwise than through the said village officers shall, on conviction in a summary inquiry before the Collector, forfeit to Government three times the amount of the sum so demanded or received.

Every such hereditary pátel or accountant shall be bound to receive and account to the said superior holder for all sums paid to or recovered by him on account of the said superior holder; and on his or their failure to do the same, the superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

Recovery of Superior Holders' dues.

86. Superior holders shall, upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings under the same rules, except that contained in section 137, and in the same manner as prescribed in Chapter XI. of this Act for the realization of land-revenue by Government:

Superior holders entitled to assistance in recovery of dues from inferior holders, &c.

Provided

But application must be made within the revenue year or within the year of tenancy.

Provided that such application be made within the revenue year or within the year of tenancy in which the said rent or land-revenue became payable.

The Collector how to proceed on such application being made.

87. On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case. On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land-revenue as appears to him upon the evidence before him to be lawfully due.

Assistance may be refused or granted to a limited extent only.

But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates, has been assessed under the provisions of Chapter VIII. of this Act or at any survey settlement confirmed by section 112, grant assistance to the extent only of the assessment so fixed upon the said land.

Civil suit not to be barred.

Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

Grant of Special Powers to Holders of Alienated Lands.

The Governor in Council may, by commissions, confer certain powers on holders of alienated lands.

88. It shall be lawful for the Governor in Council at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely):

(*a*) to demand security for the payment of the land revenue or rent due to him, and if the same be not furnished, to take such precautions as the Collector is authorized to take, under sections 141 to 143;

(*b*) to attach the property of persons making default in the payment of such land-revenue or rent, as aforesaid;

(*c*) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable;

(*d*) to exercise the powers of a Collector under sections 65 and 66;

(*e*) to

(*e*) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided;

(*f*) to take measures for the maintenance and repair of boundary-marks in the manner provided for survey officers in section 122:

Provided that the powers contemplated in clauses (*c*) to (*f*) shall be conferred only on holders of lands to which a survey settlement has been extended under the provisions of section 216.

Form of such commission.

89. Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of Government; and a commission may, if the Governor in Council see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

Reference must be made by holder of commission to the Collector in certain cases.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made, appear to the Collector, after such inquiry as he may deem fit to make, to be just, he shall give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186. But if the holder of the commission is invested, under Regulation XIII. of 1830, with civil jurisdiction and with power to execute his own or his agent's decrees, the sale shall be conducted by him and not by the Collector and his subordinates.

When compulsory process shall cease.

91. All compulsory process shall cease:

on the defaulter's paying or tendering the amount demanded of him under protest,

or on his furnishing either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of Schedule D, or to similar effect.

Penalty for continuing compulsory process.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made, or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable on conviction in a summary inquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

92. The

Power under commission to extend to current and previous years arrears.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

Holder of commission not to enforce any unusual or excessive demand.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid, previously to the date of such demand, or of what he may have contracted in writing to pay. In the event of a dispute the Collector shall hold a summary inquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

Penalty for so doing.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land-revenue.

But holder of commission may establish his right to enhanced rent in Civil Court.

94. Nothing in the last section shall be deemed to prevent a holder of alienated land from instituting a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or re-settle the revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or from levying the sum ascertained to be due in accordance with the decree in any such suit in the manner hereinbefore mentioned.

CHAPTER VIII.

Of Survey Settlements and the Partition of Estates.

Revenue survey may be introduced by Governor in Council into any part of Presidency.

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue survey. Such survey may extend to the lands of any village, town, or city generally, or to such land only as the Governor in Council may direct; and subject to the orders of the Governor in Council it shall be lawful for the officers conducting any such survey to except from the survey settlement any land to which it may not seem expedient that such settlement should be applied.

The

The control of every such revenue survey shall vest in and be exercised by the Governor in Council.

Control of revenue survey.

96. It shall be lawful for the survey officer deputed to conduct or take part in any such survey, to require by general notice, or by summons, the attendance of holders of lands and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions, and the presence of táluka and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

Survey Officer may require by general notice, or by summons, suitable service from holders of land, &c.

97. It shall be lawful for the survey officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and in the event of a necessity for employing hired labour for this, or other similar object, incidental to survey operations, it shall be lawful to assess the cost thereof, with all contingent expenses on the lands surveyed, for collection as a revenue demand.

Assistance to be given by holders and others in the measurement or classification of lands.

98. Except as hereinafter provided, no survey number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government. A record of the minima so fixed shall be kept in the Mámlatdár's office in each táluka, and shall be open to the inspection of the public at reasonable times.

Survey numbers not to be of less than a certain extent.

These provisions shall not apply to survey numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance, in this behalf; and any survey number separately recognized in the survey records shall be deemed to have been authorizedly made, whatever be its extent.

Exception.

99. Recognized shares of survey numbers shall be subject to the same provisions of this Act as are applicable to entire survey numbers, except:

Recognized shares of survey numbe

(*a*) that it shall not be obligatory to demarcate such shares separately, and

(*b*) that

(b) that if any such share is relinquished by the occupant absolutely under the provisions of section 74, the occupancy thereof shall be offered to the occupants of the other shares of the same survey number in order of their relative largeness of the amounts payable by them respectively on account of the assessment of their said shares, and that in the event of their all refusing the occupancy of the said share, the assessment thereon shall, until such time as the entire number is relinquished by them, be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

Officer in charge of a survey to fix assessments.

100. Subject to rules or orders made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land-revenue at his discretion on all lands within the local operation of an order made under section 95 not wholly exempt from land-revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

Regard to be had to Proviso to section 52.

In fixing such assessment, regard shall be had to the requirements of the Proviso to section 52.

Proviso.

But nothing in this section shall be deemed to prevent the survey officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land-revenue or on lands especially excepted under section 95 from the survey settlement, or from dividing all such lands to which the survey extends into survey numbers.

The assessment so made may be on land, or on means of irrigation, &c.

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is leviable under section 55 or in any other manner whatsoever that may be sanctioned by Government.

Assessments so made not leviable without the sanction of Government. But may be fixed, with or without modification, by the Governor in Council for a term of years.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands.

103. When

103. When in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer or of the Collector, or Assistant or Deputy Collector publicly to announce, or to cause to be announced, the assessment fixed on each survey number.

Introduction of Survey Settlement how to be made.

The said officer, or the Collector, or Assistant or Deputy Collector shall, at a reasonable time beforehand, cause public notice to be given, in such manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey settlement shall be held to have been introduced.

104. In the year in the course of which a survey settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

Excess assessment not to be levied in the year in which a Survey Settlement is introduced.

In the year next following that in which any revised survey settlement has been introduced, any occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey numbers held by him, shall, on resigning such number in the manner prescribed by sections 74 and 76 on or before the 31st March, receive a remission of the increase so imposed.

Nor in the following year if the number is resigned that year.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land-revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village and district roads, bridges, tanks, wells, accommodation for travellers, and the like, or of any rate for the use of water which may be imposed under the provisions of section 55.

The fixing of assessment under section 102 limited to ordinary land-revenue.

106. It

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Government may direct a fresh survey and revision of assessment. But improvements made from private capital and resources not to be assessed.

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102. A revised assessment shall be fixed, not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act or under Bombay Act I. of 1865, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce, or facilities of communication.

Certain improvements may be considered in fixing revised assessment.

107. Nothing in the last preceding section shall be held to prevent a revised assessment being fixed :—

(*a*) with reference to any improvement effected at the cost of Government, or

(*b*) with reference to the value of any natural advantage, when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantage, or

(*c*) with reference to any improvement which is the result only of the ordinary operations of husbandry.

Preparation of statistical and fiscal records.

108. It shall be the duty of the survey officer, on the occasion of making or revising a settlement of land-revenue to prepare a register, to be called "the Settlement Register," showing the area and assessment of each survey number, together with the name of the registered occupant of such survey number and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

Survey Officer or Collector or Assistant Collector to correct clerical and admitted errors in the Settlement Register and inquire into and pass orders on certain applications for mutation of names.

109. The survey officer, or if the survey settlement have been introduced, under the provisions of section 103, by the Collector or Assistant or Deputy Collector, the Collector or Assistant or Deputy Collector shall at any time correct or cause to be corrected any clerical errors, and any errors which the parties interested admit to have been made in the Settlement Register;

he shall also receive and inquire into all applications made to him at any time within two years after the introduction of the survey settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been made, whether through fraud, collusion, oversight, or otherwise, shall correct or cause the same to be corrected, notwithstanding that

that all the parties interested do not admit the error; but he shall not receive any such application at any time after two years from the date of the introduction of the survey settlement, unless good cause be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any application made after the said period of two years, except with the previous sanction of Government.

Collector to keep the survey records and frame village records and accounts in accordance therewith.

110. The Collector shall keep the Settlement Register and such other records prepared by the survey officer as Government shall direct, and shall cause the village records and accounts to be prepared in accordance therewith;

and to register changes, &c.

he shall not make any alterations or corrections in the Settlement Register, but shall cause to be registered in the village records and accounts all changes that may take place, and any thing that may affect any of the rights or interests therein recorded.

Revenue management of villages or estates not belonging to Government that may be temporarily under Government management.

111. In the event of any alienated village or estate, coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers: provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Maintenance of existing settlements of land-revenue.

112. Existing survey settlements of land-revenue, made, approved, and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be in force, subject to the provisions of this Act.

Partition.

Rules for partition of an estate paying revenue to Government.

113. The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely):

(1) the estate shall be divided as far as possible according to survey numbers without sub-dividing any number;

but

but if the partition cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provisions of section 98;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible, according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provision of section 98, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of, as the Collector thinks fit;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of certain estates by the Collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khoti estate, into which a revenue survey has been introduced, or in a tálukdári estate, consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers:

Provided that no such partition shall be made, unless:

(*a*) All the co-sharers are agreed as to the extent of their respective rights in the estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under Rule (3) of the last preceding section from all the co-sharers in the estate divided.

Sub-division of numbers at time of revision of survey.

115. At the time of a revision of survey it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98, and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as registered occupants of such sub-divisions in the Settlement Register separately.

116. When

116. When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time, notwithstanding the provisions of section 98.

Separate demarcation of land appropriated under section 65 or 67.

117. Nothing in section 113, 115, or 116 shall affect the provisions of Bombay Act V. of 1862.

Bombay Act V. of 1862 not affected.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

118. The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined by survey officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Determination of village boundaries.

Rule 1.—When the pátels and other village officers of any two or more adjoining villages, and in the case of an alienated village, the holder thereof or his duly constituted agent, shall voluntarily agee to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means.

Village boundaries may be settled by agreement.

Rule 2.—If the pátels and other village officers, and, in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey officer shall, unless the officer making it be the

Procedure in case of disagreement or dispute.

Suprintendent

Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Determination of field boundaries.

119. If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village officers then present, it may be laid down as pointed out by the holder or person in occupation, and if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey officer according to the village records, and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey records have been handed over to the Collector, a dispute arise concerning the boundary of any survey number, it shall be determined by the Collector, who shall be guided in the case of survey numbers by the survey records, if they afford satisfactory evidence of the boundary previously fixed, and if not, by such other evidence as he may be able to procure.

Settlement of boundary disputes by arbitration.

120. If the several parties concerned in a boundary dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer, or if the said officer be a survey officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the Code of Civil Procedure.

If arbitration fail, survey officer to settle the dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey officer lower in rank than

than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

121. The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative : Effect of the settlement of a boundary.

(*a*) of the proper position of the boundary-line or boundary-marks, and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Boundary-marks.

122. It shall be lawful for any survey officer, authorized by a Superintendent of Survey, or Settlement Officer, to cause to be constructed or repaired boundary-marks of villages or survey numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein. Construction and repair of boundary-marks of survey numbers and villages.

Such officer may require landholders to construct or repair their boundary-marks, by a notification which shall be posted in the chauri or other public place in the village, to which the lands under survey belong, directing the holders of survey numbers to construct or repair, within a specified time, the boundary-marks of their respective survey numbers, and on their failure to comply with the requisition so made, the survey officer shall then construct or repair them, and assess all charges incurred thereby as hereinbefore provided. Requisition on landholders to erect or repair boundary-marks.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey numbers within the limits of the lands to which the survey extends. A general notification to be good and sufficient notice of requisition.

The size, material, and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate. Description of boundary-marks.

123. Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the revenue officers in cases of alteration, removal, or disrepair. It shall be the duty of the village officers and servants to prevent the destruction or unauthorized alteration of the village boundary-marks. Responsibility for the maintenance of boundary-marks.

124. When the survey settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve Collector to have charge

of boundary-marks after introduction of the Survey Settlement.

devolve on the Collector, and it shall be his duty to take measures for their maintenance and repair, and for this purpose the powers conferred on survey officers by section 122 shall vest in him.

Penalty for injuring boundary-marks.

125. Any person convicted, after a summary inquiry before the Collector, or before a survey officer, Mámlatdár, or Mahálkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed, or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X.

Of Lands within the Sites of Villages, Towns, and Cities.

Fixing of Sites.

Limits of sites of villages, towns and cities how to be fixed.

126. It shall be lawful for the Collector, or for a survey officer, acting under the general or special orders of Government, to determine what lands are included within the site of any village, town, or city, and to fix, and from time to time to vary the limits of the same, respect being had to all subsisting rights of landholders.

Exemption from Land Revenue.

Act XI. of 1852 and Bombay Acts II. and VII. of 1863 how far applicable to lands in such sites.

127. Act XI. of 1852 and Bombay Acts II. and VII. of 1863, shall be deemed to be applicable, and to have always been applicable, in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of Bombay Act IV. of 1868, which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Act shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

Existing exemption when to be continued in case of certain lands in towns and cities in which Bombay Act IV. of 1868 has been in operation.

128. The existing exemption from payment of land revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry into titles has been made under the provisions of Bombay Act IV. of 1868, shall be continued:

1st.—If such lands are situated in any town or city where there has been in former years a survey, which Government

ment recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land-revenue.

2nd.—If such lands have been held wholly or partially exempt from the payment of land-revenue for a period of not less than five years before the application of Bombay Act I. of 1865, or IV of 1868 to such town or city;

3rd.—If such lands, for whatever period held, have been held wholly or partially exempt from payment of land revenue under a deed of grant or of confirmation issued by an officer whom Government recognize as having been competent to issue such deed.

Right to exemption to be determined by the Collector.

129. Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Occupancy price payable in addition to assessment, in certain cases.

130. In towns and cities to which section 128 applies, the holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorizedly occupied for a period commencing less than two years before Bombay Act I. of 1865 or IV. of 1868 was applied to the town or city in which the said lands are situate, shall be liable to pay the price of the occupancy of the said lands in addition to the land-revenue assessed thereupon. The said occupancy price shall be determined according to the provisions of section 62.

Miscellaneous.

Survey of lands in such sites how to be conducted.

131. If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town, or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII. and IX of this Act: Provided that nothing contained in sections 96, 97, 101, 103, 104, or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

Proviso.

In certain cases a survey fee to be charged.

132. When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey-fee to be assessed by the Collector under such rules as may

may be prescribed in this behalf from time to time by Government, provided that the said fee shall in no case exceed rupees five for each survey number. The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

In any town or city in which Bombay Act IV. of 1868 was in force before the passing of this Act, a similar public notice shall be issued by the Collector within six months after the passing of this Act, provided that in any such town or city no survey-fee shall be leviable when a fee has already been paid by a landholder for a sanad obtained by him under section 10 of the said Act.

Sanad to be granted without extra charge.

133. Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, specifying by plan and description the extent and conditions of his holding:

Proviso.

Provided that if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.

134. If any land within the site of any village, town, or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be appropriated to any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Limitation of certain suits.

135. Any suit instituted in a Civil Court to set aside any order passed by the Collector under section 37 or 129, in respect of any land situate within the site of a village, town, or city, shall be dismissed, although limitation has not been set up as a defence, if it has not been instituted within one year from the date of the order.

CHAPTER XI.

CHAPTER XI.

Of the Realization of the Land Revenue and other Revenue Demands.

Responsibility for Land Revenue.

136. The registered occupant shall be primarily responsible to Government for the land-revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land-revenue of alienated land.

Primary responsibility.

On failure of the person primarily responsible to Government for the land-revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the inferior holder or person in actual occupation of the land.

Recovery of land-revenue if the person primarily responsible fails to pay it.

When land-revenue is recovered from any such co-occupant, co-sharer, inferior holder, or other person, he shall be allowed credit for all payments which he may have made to the registered occupant, or inferior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Credit to be allowed to inferior holder for recoveries made from him.

Priority of Government Claim for Land Revenue.

137. The claim of Government to any moneys recoverable under the provisions of this chapter shall have precedence over any other debt, demand, or claim whatsoever, whether in respect of mortgage, judgment-decree, execution, or attachment, or otherwise howsoever, against any land or the holder thereof.

Claims of Government to have precedence over all others.

138. In all cases the land-revenue for the current year of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

The liability of the crop for the revenue of the land.

Land Revenue when leviable.

139. The land-revenue shall be leviable on or at any time after the first day of the revenue year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Land-revenue may be levied at any time during the revenue year.

Precautionary

Precautionary Measures for the Security of the Land Revenue.

Removal of crop which has been sold, &c., may be prevented until the revenue is paid.

140. When the crop of any land or any portion of the same is sold, mortgaged, or otherwise disposed of, whether by order of a Civil Court or other public authority, or by private agreement, the Collector may prevent its being removed from the land until the current year's revenue of the said land has been paid, whether the date fixed for the payment of the same, under the provisions thereinafter contained, has yet arrived or not. But in no case shall a crop, or any portion of the same, which has been sold, mortgaged, or otherwise disposed of, be detained on account of more than one year's revenue.

In order to secure the land-revenue the Collector may

141. It shall be lawful for the Collector, in order to secure the payment of the land-revenue by enforcement of the lien of Government on the crop—

prevent the reaping of the crop, or

(*a*) to require that the crop growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him, in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

the removal thereof, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

place watchmen over it.

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs.

Collector's orders under last section how to be made known.

142. The Collector's orders under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chauri or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned.

Any

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the Indian Penal Code, abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed.

Penalty for disobedience of order.

143. The Collector shall not defer the reaping of the crop, nor prolong its deposit unduly so as to damage the produce; and if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this chapter or take such portion thereof as he may deem fit, for sale under the provisions of this chapter applicable to sales of moveable property in realization of the revenue due and of all legal costs, and release the rest.

Reaping, &c., not to be unduly deferred.

Crop when to be released.

144. If, owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land-revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Temporary attachment and management of a village or share of a village.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payments of the land-revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector, subject to the orders of the Commissioner, may direct.

Powers of manager, and disposal of surplus profits.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which it is payable under the provisions hereinafter contained.

Precautionary measures to be relinquished on security being furnished.

Regulation

Regulation of Payment of Land Revenue.

Government to determine the dates, &c., on which land revenue shall be payable.

146. Land-revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such instalments, to such persons and at such places as may from time to time be determined by the orders of Government.

Defaulters.

Arrear. Defaulters.

147. Any sum not so paid becomes thereupon an arrear of land-revenue, and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

Liabilities incurred by default.

148. If any instalment of land-revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to proceed to levy at once the entire balance of land-revenue due by the defaulter for the current year, in addition to such charge as a penalty, or by way of interest, as may be authorized according to a scale to be fixed from time to time, under the orders of the Governor in Council.

Certified account to be evidence as to arrears.

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear of the amount of land-revenue due, and of the person who is the defaulter.

Collectors may realize each other's demands.

On receipt of such certified statement it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this chapter as if the demand arose in his own district. A similar statement of account, certified by the Collector of Bombay, may be proceeded upon as if certified by the Collector of a district under this Act.

Recovery of Arrears.

Process for recovery of arrears.

150. An arrear of land-revenue may be recovered by the following processes :—

(*a*) by serving a written notice of demand on the defaulter under section 152 ;

(*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 153 ;

(*c*) by distraint and sale of the defaulter's moveable property under section 154;

(*d*) by sale of the defaulter's immoveable property under section 155;

(*e*) by

(*e*) by arrest and imprisonment of the defaulter under sections 157 and 158;

(*f*) in the case of alienated holdings consisting of entire villages, or shares of villages, by attachment of the said villages, or shares of villages, under sections 159 to 163;

151. The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year: Revenue demands of former years how recoverable.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year. Proviso.

Notice of Demand.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues. When notice of demand may issue.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of occupancy or alienated holding.

153. The Collector may declare the occupancy or alienated holding in respect of which an arrear of land revenue is due, to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts. The occupancy or alienated holding for which arrear is due may be forfeited.

Sale of Defaulter's Property.

154. The Collector may also cause the defaulter's moveable property to be distrained and sold. Distraint and sale of defaulter's moveable property.

Such distraints shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct. By whom to be made.

155. The Collector may also cause the right, title, and interest of the defaulter in any immoveable property other than the land on which the arrear is due to be sold. Sale of defaulter's immoveable property.

156. All such property as is by the Civil Procedure Code exempted from attachment or sale in execution of a decree, shall also be exempt from distraint or sale, under either of the last two preceding sections. Exemption from distraint and sale.

The Collector's decision as to what property is so entitled to exemption, shall be conclusive.

Arrest

Arrest and Imprisonment.

Arrest and detention of defaulter.

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody fot ten days in the office of the Collector or of a Mámlatdár or Mahálkari, unless the revenue due, together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention, is sooner paid.

Imprisonment in Civil Jail.

If, on the expiry of ten days, the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district:

Defaulters not to be detained in custody longer than debtors may be detained by the Civil Court.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a civil court for a debt equal in amount to the arrear of revenue due by such defaulter.

Power of arrest by whom to be exercised.

158. The Commissioner may, with the sanction of the Governor in Council, from time to time, declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the costs of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment.

Attachment of Villages.

Power to attach defaulter's village, and take it under management.

159. If the holding, in respect of which an arrear is due, consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village to be attached, and taken under the management of himself or any agent whom he appoints for that purpose.

Lands of such village to revert free of incumbrances.

160. The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

Powers of manager.

and the Collector or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior.

superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Application of surplus profits.

161. All surplus profits of the land attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111 of this Act, shall be applied in defraying the said arrear.

Restoration of village so attached.

162. The village or share of a village so attached shall be released from attachment, and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the 1st of August next after the attachment:

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

Disposal of surplus receipts.

The Collector shall make over to the superior holder the surplus receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs; but such surplus receipts, if any, of previous years shall be at the disposal of Government.

Village, &c., to vest in Government, if not redeemed within twelve years.

163. If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all incumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

Stay of Proceedings.

But all processes to be stayed on security being given.

164. Any defaulter detained in custody, or imprisoned, shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in

in charge of such jail, security in the form of Schedule D, satisfactory to the Collector, or to such other person or officer.

Or on the amount demanded being paid under protest.

And any person against whom proceedings are taken under this chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

Procedure in respect of Sales.

Procedure in effecting sales.

165. When any sale of either moveable or immoveable property is ordered under the provisions of this chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and in the case of moveable property, whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sales.

Such proclamation shall be made by beat of drum at the head-quarters of the táluka, and in the village in which the immoveable property is situate; if the sale be of immoveable property; if the sale be of moveable property the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

Notification of sales.

166. A written notice of the intended sale of immoveable property, and of the time and place thereof, shall be affixed in each of the following places, viz., the office of the Collector of the district, the office of the Mamlátdár or Mahálkari of the táluka or máhál in which the immoveable property is situate, the chávdi or some other public building in the village in which it is situate, and the defaulter's dwelling-place.

In the case of moveable property, the written notice shall be affixed in the Mámlatdár's or Mahálkari's office, and in the chávdi or some other public building in the village in which such property was seized.

The Collector may also cause notice of any sale, whether of moveable or immoveable property, to be published in any other manner that he may deem fit.

Sale by whom to be made.

167. Sales shall be made by auction by such persons as the Collector may direct.

Time when sale may be made.

No such sale shall take place on a Sunday or other general holiday recognized by Government nor until after the expiration of at least thirty days in the case of immoveable property

property, or seven days in the case of moveable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

The sale may from time to time be postponed for any sufficient reason. **Postponement of sale.**

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf. **Sale of perishable articles.**

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale, to the person appointed under section 146 to receive payment of the land-revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 164, the sale shall be stayed. **When sale may be stayed.**

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of moveable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf. In the case of sales made subject to confirmation the Collector shall direct by whom such sales may be confirmed. **Sales of moveable property when liable to confirmation.**

171. When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase-money the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever. **Mode of payment for moveable property when sale is concluded at once.**

172. When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold. The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office day after such day. On payment of such full amount of the purchase-money the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever. **Ditto when sale is subject to confirmation.**

173. In

Deposit by purchaser in case of sale of immoveable property.

173. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Purchase-money when to be paid.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immoveable property took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office day after such fifteenth day.

Effect of default.

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of moveable or immoveable property, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by re-sale.

176. If the proceeds of the sale, which is eventually made, be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land-revenue.

Notification before re-sale.

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale takes place forth with, be made after the issue of a fresh notice in the manner prescribed for original sales.

Application to set aside sale.

178. At any time within thirty days from the date of the sale of immoveable property, application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it;

but except as otherwise is provided in the next following section, no sale shall be set aside on the ground of any such irregularity, or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

Order confirming or setting aside sale.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming

firming the sale: provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

On confirmation of sale, purchaser to be put in possession. Certificate of purchase.

181. After a sale of any occupancy or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land included in such occupancy or alienated holding, and shall cause his name to be entered in the revenue records as occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the occupancy or alienated holding to which the certificate refers.

Bar of suit against certified purchaser.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a civil court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

Application of proceeds of sale.

183. When any sale of moveable property under this chapter has become absolute, and when any sale of immoveable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue,

and the surplus (if any) shall be paid to the person whose property has been sold.

Expenses of sale how calculated.

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government.

Surplus not to be paid to creditors, except under order of Court.

184. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

185. The

Liability of purchaser for revenue.

185. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the sale.

Claims to attached moveable property how to be disposed of.

186. If any claim shall be set up by a third person to moveable property attached under the provisions of this chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice. If the claim be admitted wholly or partly, the property shall be dealt with accordingly. Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Application of the Provisions of this Chapter.

What moneys leviable under the provisions of this Chapter.

187. All sums due on account of land-revenue, all quit-rents, nazaranas, succession duties, transfer duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines, and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land-revenue;

and all moneys due by any contractor for the farm of customs-duties, or of any other duty, or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement;

and also all sums declared by this or by any other Act or Regulation at the time being in force to be leviable as an assessment, or as a revenue demand, or as an arrear of land-revenue;

shall be levied under the foregoing provisions of this chapter.

Sureties liable as revenue-defaulters.

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this chapter as revenue-defaulters.

On resumption of a from, no payments made to contractor in advance to be admitted.

And in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation.

CHAPTER XII.

CHAPTER XII.

Procedure of Revenue Officers.

188. In all official acts and proceedings a revenue officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time, and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

Subordination of revenue officers.

189. Every revenue officer not lower in rank than a Mámlatdár's first kárkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party, or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make. A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

Power to summon persons to give evidence and produce documents

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: provided that exemptions under sections 640 and 641 of the Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal;

Summons to be in writing, signed, and sealed.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence:

How to be served.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Service in district other than that of issuer.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any;

Mode of serving notices.

or

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

Notice not void for error.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

Procedure for procuring attendance of witnesses.

192. In any formal or summary inquiry if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section 160.

Formal Inquiry.

Mode of taking evidence in formal inquiries.

193. In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of the officer making the investigation or inquiry and shall be signed by him.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness desposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Taking evidence given in English. Translation to be on record.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

Writing and explanation of decisions.

194. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own handwriting, and shall contain a full statement of the grounds on which it is passed.

Summary Inquiry.

Summary inquiries how to be conducted.

195. In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all, or any, of the rules applicable to a formal inquiry, if he deem fit.

Formal and summary inquiries to be deemed judicial proceedings.

196. A formalor summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219, and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry.

Hearing and decisions. Notice to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how to be conducted.

197. An inquiry which this Act does not require to be either formal or summary, or which any revenue officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, &c., how to be obtained.

198. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisons, orders, and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them on due application being made for the same, subject to such charges for copying, &c., as may, from time to time, be authorized by Government.

Arrest of a defaulter to be made upon a warrant.

199. Whenever it is provided by this Act that a defaulter, or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Power of revenue officer to enter upon any lands or premises for purposes of measurement, &c.

200. It shall be lawful for any revenue officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing, or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially

or

or wholly exempt from the same: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Proviso.

The Governor in Council to determine the language of a district.

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Collector how to proceed in order to evict any person wrongfully in possession of land.

202. Whenever it is provided by this, or by any other Act for the time being in force, that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, viz.:—

by serving a notice on the person or persons in possession, requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and,

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mámlatdár or Mahálkari or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district for such period, not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

APPEALS AND REVISION.

Appeal to lie from any order passed by a revenue officer to his superior.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue officer under this Act, or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

204. An

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Appeal when to lie to the Governor in Council.

205. No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case.

Periods within which appeals must be brought.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

206. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals, that he had sufficient cause for not presenting the appeal within such period.

Admission of appeal after period of limitation.

No appeal shall lie against an order passed under this section admitting an appeal.

207. Whenever the last day of any period provided in this chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

Provision where last day for appeal falls on a Sunday or holiday.

208. Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Copy of order to accompany petition of appeal.

209. The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Powers of appellate authority.

210. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to suspend execution of order of subordinate officer.

211. The Governor in Council and any revenue officer, not inferior in rank to a Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate

Power of the Governor in Council and of certain revenue officers to call for and

examine the records and proceedings of subordinate officers.

subordinate revenue officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely—an Assistant or Deputy Collector, a Mámlatdár, a Mahálkari, and Assistant Superintendent of Survey, and an Assistant Settlement Officer.

And to pass orders thereupon.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled, or reversed, he may pass such order thereon as he deems fit.

Rules as to decisions or orders expressly made final.

212. Wherever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul, or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps and land registers and village accounts, &c., open to inspection. Extracts and copies shall be given.

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and survey records, and all village accounts and land registers shall be open to the inspection of the public at reasonable hours, and certified extracts from such maps, registers and accounts or certified copies thereof shall be given to all persons applying for the same.

The Governor in Council to frame rules

214. The Governor in Council may from time to time make and from time to time vary or rescind rules or orders not inconsistent with this Act :

(*a*) determining the qualifications to be required of all members of establishments appointed under section 21 ;

(*b*) regulating the power of fining, reducing, suspending and dismissing revenue officers under section 32 ;

(*c*) prescribing the purposes to which land liable to the payment of land-revenue may be appropriated under section 48 ;

(*d*) regulating the system and manner of assessing land to the land-revenue under sections 52 and 100 ;

(*e*) for

(*e*) for the disposal of forfeited occupancies or alienated holdings under section 56;

(*f*) fixing the maximum amount of fine leviable under section 61 when land which has been unauthorizedly occupied is appropriated to any non-agricultural purpose;

(*g*) for the administration of any survey settlement;

(*h*) prescribing the mode, form and manner in which appeals under Chapter XIII. of this Act shall be drawn up and presented;

(*i*) generally for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*c*), (*d*), (*e*), (*f*), or (*i*), may be made either generally or in any particular instance.

Certain rules to be published.

215. All general rules or orders made by the Governor in Council under the last preceding section shall be published, and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

It shall be lawful for the Governor in Council, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment of either description, within the meaning of the Indian Penal Code, or five hundred rupees fine, or both.

Chapters VIII to X how far applicable to alienated villages.

216. Save as is otherwise provided in section 111 and hereinafter in this section, the provisions of Chapters VIII to X of this Act shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such village, and of determining any disputes relating thereto. But the provisions of the said chapter shall be applicable to—

(*a*) all unalienated lands situated within the limits of an alienated village,

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated,

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any above such amount, belongs to Government.

But it shall be lawful for the Governor in Council, on an application in writing being made by the holder of any such village to that effect, to authorize the extension of all or any of the provisions of the said chapters to any such village.

217. When

Occupants in alienated villages.

217. When a survey settlement has been introduced under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act relating to occupants and registered occupants shall be applicable, so far as may be, to them.

Construction of this Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land, or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

SCHEDULE A.

(*See Section* 2.)

Number and Year.	Subject.	Extent of Repeal.
	BOMBAY REGULATIONS.	
IV. of 1827 ...	Forms of proceeding of the Courts of Law.	Clauses 2 & 3 of section 69.
XVI. of 1827.	Duties and powers of the Collector and subordinate Revenue Officers.	So much as has not already been repealed.
XVII. of 1827	Assessment and realization of the Land-Revenue.	Ditto.
V. of 1830 ...	Revenue Commissioners and Sub-Collectors.	Ditto.
XV. of 1831...	Punishment of Pátels falsifying Revenue Records.	Ditto.
II. of 1832 ...	Realization of Revenue from Farmers.	Ditto.
V. of 1833 ...	Embezzlement. Hereditary District and Village Officers.	Ditto.

ACTS.

Number and year.	Subject.	Extent of Repeal.
	ACTS OF THE GOVERNOR GENERAL IN COUNCIL.	
XVIII. of 1838	Security	The whole Act.
XIII. of 1842.	Collection of Inámdárs' Revenues ...	Ditto.
XVII. of 1842.	Revenue Commissioners	So much as has not already been repealed.
III of 1846...	Boundary-marks	Ditto.
XII. of 1850. .	Public Accountants	The whole Act so far as it applies to revenue officers in the Presidency of Bombay.
XXI. of 1852.	Deputy Collectors	So much as has not already been repealed.
	ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL.	
VII. of 1863.	Summary Settlement	Sections 4 & 5.
I. of 1865 ...	Survey	The whole Act, except sections 37 & 38.
I. of 1866 ...	Extending Bombay Act I. of 1865 .	The whole Act.
I. of 1868 ...	Powers and Duties of Assistant and Deputy Collectors.	Ditto.
IV. of 1868...	City Surveys	Ditto.
I. of 1875 ...	Amendment of (Bombay) Act I. of 1865.	Ditto.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

Whereas I,
inhabitant of
have been appointed to the office of
and have been called upon to furnish security under the provisions of section 23 of the Bombay Land Revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of

of any such office, I hereby bind myself to pay to the Secretary of State for India in Council, the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property within such time, and to such person as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein I bind myself to forfeit to the Secretary of State for India in Council the sum of Rupees

Dated

(Signature.)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

We
hereby declare ourselves sureties for the abovesaid
that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council such sum as shall be deemed sufficient by the
to cover any loss or damage which the Government may sustain by reason of such default.

Dated

(Signature.)

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT ,

Whereas *A.B.* of was on the day of 187 , ordered by to (*here state the substance of the demand made*); and whereas the said

said *A.B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section of the Bombay Land Revenue Code, that he be imprisoned in the Civil Jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (*or section* 157 or 164 *as the case may be*) of the said Code; you are hereby required to receive the said *A.B.* into the Jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 187 .

(Signature of Collector.)

SCHEDULE D.

Form of Bond to be required under Section 28 or 164.

Whereas I,
have been ordered by
to (*here state the nature of the demand*)
and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of
to contest the justice of the demand, and do agree that in the event of a decree being passed against me I will fulfill the same and will pay all amounts, including costs and interests, that may be due by me, or that if I fail to institute a suit as aforesaid, I will, when required, pay the abovementioned amount of Rupees (*or will deliver up the above-mentioned papers or property as the case may be*), and in the case of my making default therein, I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of Rupees

Dated

(Signature.)

Form of Security to be subjoined to the Bond of the Principal.

We
hereby declare ourselves securities for the above said
that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of Rupees.

Dated

(Signature.)

SCHEDULE E.

B 278—11

SCHEDULE E.

(*See Section* 84.)

I.—Form of Notice to be given by Landlord to Tenant to quit.

To

A. B.

I do hereby give you notice that I do intend to enter upon, and take possession of the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the
of 187 .

(Signed) *C. D.*

Dated this day of 187 .

II.—Form of Notice to be given by Tenant to Landlord of his intention to quit.

To

C. D.

I do hereby give you notice that I shall quit and deliver up to you, at the end of this current year terminating on the of
187 , the land (*here give the description*), which I hold from you

(Signed) *A. B.*

Dated this day of 187 .

SCHEDULE F.

Form of Commission to be issued to a Holder of Alienated Lands or Villages or his Agent, under Section 89.

Seal.

The Governor in Council of Bombay, by virtue of the powers vested in him by the Bombay Land Revenue Code, is pleased to confer on you (*Jagirdar, &c., or Agent, &c., as the case may be,*) power to
in (or in respect of) the villages and lands specified in this Commission, in the manner prescribed in (or in Section of) the said Code.

The

The villages and lands over which the power thus conferred upon you extends, are as follows :—

(*Here enter the description.*)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Governor in Council.

(Signed)

SCHEDULE H.

(*See Section* 133.)

Form of Sanad for Building Sites.

(*Royal Arms.*)

THE SECRETARY OF STATE IN COUNCIL

To_____

Whereas His Excellency the Governor of Bombay in Council, with a view to the settlement of the land-revenue, and the record and preservation of proprietary and other rights connected with the soil, has, under the provisions of the Bombay Land Revenue Code, directed a survey of the lands within the of and ordered the necessary inquiries connected therewith to be made, this Sanad is issued under section 133 of the said Code to the effect that—

There is a certain plot of ground occupied by you in the division of the of registered No. in the map marked sheet No. and facing towards the the road leading from to , containing about square yards, and of the following shape and about the following dimensions :—

You are hereby confirmed in the occupancy of the above described ground, exempt from all land-revenue (or subject to the payment of Rs. per annum to the land-revenue.)

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government,

Government, without any objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land-revenue according to the provisions of the Bombay Land Revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law.)

This Sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of this day of one thousand eight hundred and A.D.

(Signed)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202.

Seal.

To the Officer in charge of the Civil Jail at

Whereas *A. B.* of has resisted (or obstructed) *C. D.* in removing *E. F.* (or himself, that is the said *A. B.*) from certain land in the village of in the táluka, and whereas it is necessary, in order to prevent the continuance of such obstruction (or resistance), to commit the said *A. B.* to close custody; You are hereby required, under the provisions of section 202 of the Bombay Land Revenue Code, to receive the said *A. B.* into the Jail under your charge, and there to keep him in safe custody for days

Dated this day of 187 .

Signature of Collector.

BOMBAY ACT No. VI. OF 1879.

[*Received the assent of the Governor of Bombay on the 31st July 1879, and of the Governor-General on the 27th August 1879, and published by the Governor of Bombay on the 4th September 1879.*]

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

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[*Price Thirteen Annas and a Half.*]

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BOMBAY ACT No. VI. OF 1879.

[*Received the assent of the Governor of Bombay on the 31st July 1879, and of the Governor-General on the 27th August 1879, and published by the Governor of Bombay on the 4th September 1879.*]

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

WHEREAS it is expedient that the immoveable and other property vesting in the Trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exerciseable by the said Trustees, be vested, subject to the provisions hereinafter appearing, in a new Trust; It is enacted as follows :—

I.—PRELIMINARY.

Short title.

1. This Act may be called "The Bombay Port Trust Act, 1879."

Repeal of Bombay Act I. of

2. From the date which shall be notified* by the Governor in Council under Section 8, Bombay Act

I. of 1873. I. of 1873 (The Bombay Port Trust Act, 1873,) shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Trustees appointed under the said Act, shall be deemed to have been incurred, entered into, or engaged to be done by, with or for the Board constituted by this Act;

and all rates and sums of money due to the said Trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against the said Trustees, may be continued or instituted by or against the said Board.

Interpretation Section. 3. In this Act, unless there be something repugnant in the subject or context,

"Rates." (1) the word "rates" includes any toll, due, rent, rate, or charge, leviable under section 43;

"Port." (2) "Port" means the Port of Bombay within such limits as may from time to time be defined by Government for the purposes of this Act by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the Bombay Port Trust Act, 1873, for the purposes of that Act;

"Vessel." (3) "Vessel" denotes any thing made for the conveyance by water of human beings or of property;

"Master." (4) "Master," when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;

"Owner." (5) "Owner," when used in relation to goods, includes any consignor, consignee, shipper or agent

agent for the sale or custody of such goods; and when used in relation to any vessel, includes any part owner, charterer, consignee, or mortgagee in possession thereof;

(6) "Land" includes the bed of the sea below high-water mark; "Land."

(7) "Wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same; "Wharf."

(8) "Dock" includes basins, locks, cuts, entrances, graving docks, graving blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock; "Dock."

(9) "Pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge, or pontoon, and any bridges or other works connected therewith; "Pier."

(10) the word "Goods" includes wares and merchandise of every description; "Goods."

(11) "Immoveable Property" includes wharfage rights and all other rights exercisable on, over, or in respect of any land, wharf, dock or pier; "Immoveable Property."

(12) the words "Public Securities" mean securities of the Government of India, Bombay Municipal Debentures and securities and debentures issued under sections 30 and 41, respectively, of this Act. "Public Securities."

II.—Of the Board of Trustees.

Constitution of Board.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called "the Trustees of the Port of Bombay;" and such Board, hereinafter referred to as "the Board," Act to be carried out by Trustees.

Board," shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Board.

5. The Board shall consist of thirteen members, that is to say, of

five Elective Trustees,
seven Nominee Trustees, and
a Chairman;

and not less than three of the Trustees shall be natives of India residing in the City of Bombay.

Elective Trustees to be elected by the Bombay Chamber of Commerce;

6. The elective Trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall from time to time be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette.*

or in default of such election shall be nominated by Government.

In the event of default being made by the Chamber in electing any Trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a Trustee as if he had been duly elected by the Chamber.

Nominee Trustees and the Chairman to be appointed by Government.

7. The nominee Trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette.*

Term of office of first Trustees when to commence.

8. The term of office of the first nominee and elective Trustees shall commence on such date as shall be notified in this behalf by the Governor in Council.

9. Three

9. Three of the first nominee Trustees and three of the first elective Trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of, the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six Trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee Trustees and the remaining two of the first elective Trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid.

Nominee and elective Trustees to retire from office by rotation.

In every other case the nominee and elective Trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

10. The first elective Trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee Trustees shall be appointed on some day during the said fortnight; in every other case elective Trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence; and nominee Trustees shall be appointed on some day in the remainder of the said month of March.

Election and appointment of first Trustees.

Trustees to be appointed and elected in the month of March.

11. The Chairman shall hold office during the pleasure of Government, provided that he does not in the meantime cease, through disqualification, to be a Trustee.

Chairman to be appointed during pleasure of Government.

12. Any person on ceasing to be a Trustee, shall, unless disqualified under section 14, be re-eligible.

Trustees re-eligible.

13. Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation, or disqualification of such Trustee shall be filled up within one month by Government, if the office vacated was that of a nominee Trustee, or by the

Casual vacancies.

the Chamber of Commerce, if it was that of an elective Trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of Trustees: Provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

Acting Trustees.

If a Trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a Trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such Trustee during his absence or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

Disqualifications of Trustees.

Disqualifications for office of Trustee.

14. No person shall be qualified to be a Trustee during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board;

and any Trustee who

Trustee who becomes disqualified to cease to be a Trustee.

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*f*) is

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(*f*) is sentenced to imprisonment,

shall cease to be a Trustee, and his office shall thereupon become vacant:

Provided always that no Trustee shall vacate his office by reason only of his — Proviso.

(*g*) having a share in any Joint Stock Company which shall contract with or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board.

Salaries of Trustees.

15. The Chairman shall receive such salary as Government shall from time to time determine. — Salary of Chairman to be fixed by Government

Every Trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any Trustee for his attendance at all such meetings during that one week. — Trustees other than Chairman entitled to fees.

Proceedings of Board.

16. The following provisions shall be observed with respect to the proceedings of the Board (namely):— — Provisions concerning the Board's proceedings.

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred. — Vacancy not to affect Board's proceedings.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent — Board to meet together and

arrange for transaction of business as they think fit, but

consistent with this Act, with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):—

there must be a meeting once a fortnight, or

(*a*) that a meeting shall be held once at least in every fortnight;

whenever necessary upon an emergency, and

(*b*) that the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting;

five Trustees shall form a quorum, and

(*c*) that no business shall be transacted at any meeting unless at least five Trustees are present from the beginning to the end of such meeting;

every meeting to be presided over by the Chairman, and

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent, by such one of the Trustees present as may be chosen by the meeting;

all questions must be decided by a majority of votes, and

(*e*) that all questions shall be decided by a majority of votes of the Trustees present, the president having a second or casting vote in all cases of equality of votes;

votes must be recorded, if a poll is demanded, and

(*f*) that if a poll be demanded, the names of the Trustees voting and the nature of their votes shall be recorded by the president;

minutes of proceedings must be kept.

(*g*) that minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president of such meeting, and shall be open to inspection by any Trustee during office hours;

(3) The

(3) The Board may delegate any of their powers to committees consisting of such Trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed;

Board may delegate powers to Committees

(4) A committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting;

Committees' meetings to be presided over by a chairman.

(5) Committees may meet and adjourn as they think proper, but the Chairman of the Board may, whenever he thinks fit and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;

Committees when to meet.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof;

Questions how to be decided at Committees' meetings.

(7) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee or on the ground that they, or any of them, were disqualified for the office of Trustee.

Acts of Board, &c., not to be invalidated by informalities.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law

Mode of executing contracts.

law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement, on behalf of the Board, shall be in writing, and shall be signed by the Chairman, and by two other Trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board.

The Board may compound for breach of contract.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman.

19. The Chairman shall:

Duties of Chairman.

(1) attend every meeting of the Board unless prevented by sickness or other reasonable cause;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances;

(3) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

Leave of absence may be granted to the Chairman.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoint to act for the Chairman during any such absence on leave

on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the General Account of the Board.

Leave and acting allowances to be defrayed out of the General Account.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees, and allowances which the board sanctions for each such officer or servant.

Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

Until a schedule is prepared and sanctioned under this section, the schedule in force under section 23 of the Bombay Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions:

Provided always that artisans, porters and labourers, and muccadums of porters and labourers shall not be deemed to be officers or servants within the meaning of this section or of section 22 or 23 of this Act.

Proviso.

22. The Board shall from time to time frame regulations:

Board to frame regulations:

(1) for regulating the grant of leave to the officers and servants of the Board;

for regulating leave;

(2) for

for settling absentee allowances;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

for fixing acting allowances;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

for regulating length of service;

(4) for regulating the period of service of all such officers and servants;

for fixing pensions, &c.;

(5) for determining the conditions under which such officers and servants or any of them shall on retirement receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities, or compassionate allowances;

for authorizing contributions to Provident Fund.

(6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act:

Proviso as to certain old officers and servants.

Provided that officers and servants who were appointed by Government previous to the passing of the Bombay Port Trust Act, 1873, and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued in the service of the Trustees appointed under the Bombay Port Trust Act, 1873, and of the Trust constituted by this Act, shall be entitled to retiring pensions, gratuities, or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status, and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity, or compassionate allowance, or as to the amount of retiring

retiring pension, gratuity, or compassionate allowance to which he is entitled, it shall be determined by Government.

Powers of Appointment, &c.

23. Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

Appointments, &c., by whom to be made.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

Sanction of Government when necessary.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

"Engineer" defined.

Continuance of Present Officers and Servants.

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8 under the Trustees appointed under the Bombay Port Trust Act, 1873, shall

Officers and servants of the late Trustees to be conti-

nued under the Board.

1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure to be observed when the Board are unable to acquire, by agreement, any immoveable property.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

Transfer of Property to Board.

Transfer to the Board of the property of present Port Trust.

28. All such immoveable and other property as is held by or in trust for the Trustees of the Port of Bombay under or in pursuance or for the purposes of the

of the Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board, but subject to all charges and liabilities affecting the same.

The property vested by this section in the Board shall be deemed to include the estate, right, title, and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the Port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabár Point and Colába Point.

Vesting in the Board the right, title and interest to be acquired by the Secretary of State in certain other properties.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; it is hereby enacted that upon and after such date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title, and interest of the Secretary of State for India in Council in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts, and liabilities affecting the same.

Board to issue securities in payment of price of properties vested in them under sec. 29.

30. And whereas it is purposed that the purchase money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; it is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate,

seventy-seven

seventy-seven lakhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Such securities to be for not less than Rs. 100 each,

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at the rate of four per centum per annum from the date fixed by the Governor in Council under section 29, and such interest shall be payable half-yearly on or after the 1st April and the 1st October.

and to be transferable.

The said securities shall be transferable by endorsement.

Application of the Board's Property.

Sale-proceeds of Board's property how to be invested.

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows and not otherwise (namely) :—

(*a*) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39, if the same or any portion of the same is at the time payable ; or

(*b*) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council ; or

(*c*) in liquidation of the securities, or of any of them, issued under section 30.

Saving of powers of Government under Land Ac-

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the Land Acquisition Act of 1870, or any other law for the time being in force for the acquisition

acquisition of land for public purposes in respect of any land vesting in the Board. quisition Act, 1870.

Liabilities.

33. The capital debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows (namely):— Capital debts of the Board.

(*a*) to the Secretary of State for India in Council, the amounts mentioned in Schedule C; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the Trustees appointed under the Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said Trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (2) of the said Act,

(*b*) to the holders of the securities to be issued by the Board under section 30, the amounts of such securities.

34. On the amounts mentioned in column three of Schedule C no interest shall be payable. Interest in what cases to be paid by the Board.

On the amounts mentioned in column two of the said schedule interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (*a*) of the last preceding section which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 of this Act interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant General of Bombay or other officer for the time being performing the duties of the office of the said Accountant General, who shall pay the same on or after the 1st April and 1st October respectively to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

Interest to be paid out of Provincial Revenues if default is made by the Board.

35. In the event of default being made by the Board in any payment of interest due by it under paragraph two, three or four of the last preceding section, the same shall be paid by the Accountant General of Bombay or other officer aforesaid, who shall debit the amount so paid to the Provincial Revenues of the Presidency of Bombay; and in the event of default being made by the Board in any payment due by it under paragraph five of the said section, the Accountant General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial Revenues of the Presidency of Bombay.

36. The

36. The Board shall pay annually on the 30th day of September to the Municipal Corporation of the City of Bombay a lump sum which shall be calculated at the following rates (namely):

Lump payment to be made to the Municipality in lieu of consolidated rate.

(*a*) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum;

(*b*) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June 1883 at the rate of sixty thousand rupees per annum; and

(*c*) thereafter at such rate as the Governor in Council shall from time to time determine.

The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed.

37. In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled, and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares constructed by the Board to be maintained by the Municipality in consideration of such payment.

The Municipality shall maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it

Such roads and thoroughfares not to be stopped up without the

consent of the Board.

but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by the Board, or the Trustees of the Port appointed under the Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section, or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

Disputes under the last section to be settled by Government.

38. Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

V.—Of the Borrowing Powers of the Board.

Governor in Council may advance money to the Board, or

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time advance money to the Board for the general purposes of this Act; or

with consent of Government the Board may raise loans.

The Board may, with the previous consent of Government, from time to time raise money for the said purposes:

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

Manner of raising such loans to be determined by Government

40. Whenever the consent of Government has been obtained to the raising of money by the Board under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

41 If

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest payable to the Secretary of State for India in Council, provided for by section 34.

Interest on debentures to be a charge on the rates prior to interest due to Secretary of State.

42. All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement; and the right to sue in respect of the monies secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Form of Debenture.

VI.—Of Revenue and Expenditure.

Levy of Rates.

43. The Board shall frame a scale of tolls, dues, rents, rates, and charges, to be levied for each or any of the following matters (namely):

Scale of rates to be framed by the Board;

(*a*) for the landing, shipping, wharfage, cranage, storage, or demurrage of goods at,

(*b*) for permission for vessels or boats to approach, or be alongside, and,

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, or pier in the possession of the Board, and so much of the Wári Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wári Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

The scale

and to be submitted to Government for sanction.

The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette* shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

Scale framed under Section 57, Bombay Act I., 1873, to continue in force until altered.

Until a scale of rates is framed, sanctioned, and published under this section, the scale in force when this Act comes into operation under section 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned and published under this section.

Rates may be remitted in special cases.

The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section.

Toll on troops.

44. The said rates shall not be leviable in respect of any vessel employed by Government solely for the transport of troops, nor in respect of the baggage or other effects of any troops landing or embarking at the port. In lieu thereof a toll shall be payable by Government to the Board on all troops and all the families of troops landing or embarking at Bombay at the rate of one rupee per head, and, if such troops and their families shall land or embark at any dock in the possession of the Board, at such additional rate as shall from time to time be determined by Government.

Charges for landing, shipping, and transhipping goods.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship, or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

Charges for towage.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

47. In

Division of Accounts.

47. In the accounts of the Board a Pilotage account shall be kept separate from the General Account.

Pilotage Account to be kept separate from the General Account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage fees, shall be credited to the General Account.

Items to be credited to the General Account.

49. The monies credited to the General Account shall be held by the Board in trust, and except as is hereinafter provided shall be applied by them in payment of the following charges (namely):—

Monies credited to the General Account on what purposes to be expended.

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other monies due to the Trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any Provident Fund established by the said officers and servants;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

(3) the interest due on any money that may have been raised by the Board under section 39;

(4) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

(5) the interest payable by the Board under section 34:

Provided

Provided always that no charge which is debitable under section 50 to the Pilotage Account shall be debited to the General Account

Pilotage fees to be credited to Pilotage Account. Monies credited to the Pilotage Account on what purposes to be expended.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the Pilotage Account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only (namely) :—

(1) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores, or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service;

(2) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof;

(3) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any Provident Fund.

Disposal of Balances.

Balances may be invested by the Board in public securities.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the General or Pilotage Account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged for expenditure on any of the purposes to which the monies credited to such account may lawfully be applied.

But the

But the money so invested by the Board, whether in respect of the General Account or of the Pilotage Account, shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied:

Amounts which may be so invested to be limited by Government. Surplus over and beyond such limits how to be disposed of.

(*a*) if such surplus belongs to the General Account, in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39, or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(*b*) if such surplus belongs to the Pilotage Account, in such manner as Government shall direct:

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the Pilotage Account or upon the profits or interest arising from any investment thereof, or of any portion thereof except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (2) and (3) of section 50.

Proviso as to claims of pilots, &c., on balance of Pilotage Account.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

Interest &c., how to be credited and debited.

52. The

Annual Estimates.

Chairman to submit an annual estimate of income and expenditure to the Board.

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the 1st day of April then next ensuing in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to revise and sanction the estimate.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

Estimate to be submitted to Governor in Council.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

Supplementary estimates may be made when necessary.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above Rs. 5,000 to be incurred unless sanctioned in the estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. Any estimate prepared by the Trustees appointed under the Bombay Port Trust Act, 1873, and approved by Government under section 53 of that Act, and which but for the passing of this Act would have force and effect, shall be deemed to have been duly prepared, passed and approved under this Act.

Estimate prepared under Bombay Act I., 1873, to be accepted for purposes of this Act.

Audit of Accounts.

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

Accounts to be audited and examined.

For the purposes of such audit and examination the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary, and may require any person holding, or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Auditors to have power to call for books, &c.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the General account; and within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall

Their remuneration to be fixed by Government.

Their report to be published.

who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette.*

Fulfilment of Board's Liabilities.

Board bound to provide for fulfilment of all their liabilities.

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure or by increase of rates for the due fulfilment of all their liabilities, and for the efficient administration of this Act; and in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

In default the Governor in Council may require the Board to increase the rates;

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

and on the Board's failing to do so, may himself increase them.

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette*, increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

The Governor in Council may also appoint a receiver

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette,*

Gazette, appoint some person to receive the rates, charges, and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income; and the person so appointed shall have for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

to recover any portion of the Board's income.

VII.—Of the Powers and Functions of the Board.

Recovery of Rates.

61. For the amount of all rates leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board, or to be shipped for export, shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods, (where such lien exists and has been preserved in the manner hereinafter provided,) for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

Recovery of rates in arrears.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such

Lien for freight preserved after landing goods if notice of lien be given.

such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs Authority of the Presidency in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

If rates are not paid, or the lien for freight is not discharged, goods may be sold after the expiration of two months.

64. If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods), as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

65. In every case of any such sale as aforesaid, the monies received from the sale shall be applied as follows:—

1*stly*.—In payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

2*ndly*.—In payment of the expenses of the sale;

3*rdly*.—In payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

Power to distrain vessels for the non-payment of rates, &c.

66. If the master of any vessel in respect of which any rates, charges, or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel, or furniture

furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties, or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port Clearance not to be granted till rates, &c., are paid.

67. If the Board shall give to the officer of Government, whose duty it is to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of rates, charges, or penalties chargeable under this Act, or any bye-laws, or orders made in pursuance hereof, against such vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

Works.

General nature of works to be executed under this Act.

68. The works to be undertaken by the Board under this Act may include—

(1) wharves, docks, and piers within the Port or on the foreshore of the Port with all necessary and convenient arches, drains, fences, roads, railways, and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(3) light-houses

(3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the Port and of the approaches thereto within a distance of three miles from the limits of the Port;

(4) laying down moorings, and the erection of cranes, scales, and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing, and raising any part of the foreshore of the Port vested in the Board, when such reclamation, excavation, enclosure, or raising may be necessary for any of the purposes of this Act;

(6) the construction and application of dredges and other machines for cleaning, deepening, and improving any portion of the Port or foreshore aforesaid;

(7) the construction of such works, without the limits of the Port, as shall be necessary for the protection of works executed by the Board within the Port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act:

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them, nor shall any new work, the estimated cost of which exceeds two lakhs of rupees, be commenced until such plan and estimate shall have been submitted to, and approved by Government.

But no new work to be commenced without a plan and estimate, if its cost shall exceed Rs. 2,000; nor without the sanction of Government to such plan and estimate, if the cost shall exceed two lakhs of rupees.

69. Nothing

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69. Nothing in this Act shall be deemed to affect:

Reservation of the rights of Government to use the wharves, &c., for collecting customs duties; and of powers of Customs Officers.

(*a*) the right of Government to collect customs duties, or of the Municipal Corporation of the City of Bombay to collect town duties, at any wharf, pier, or dock in the possession of the Board, or

(*b*) any power or authority vested in the Customs Authorities of the Presidency under any law for the time being in force for the administration of Sea Customs.

Places to be set apart for use of Customs Officers on wharves, &c.

70. Whenever any wharf, pier, or dock, in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force, for the administration of Sea Customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

the Board shall set apart, and maintain, such place on or adjoining such wharf, dock, or pier, or in such warehouse, or portion of a warehouse, for the use of the Officers of Customs as Government shall in that behalf approve or appoint;

but the right of the Board to levy rates not to be thereby affected;

but all rates payable in respect of any wharf, pier, or warehouse, or portion thereof so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

and if

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs Authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

and the surplus income derived from any portion of the Customs Bonded Warehouse used as a public warehouse to be paid to the Board.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Board to provide free landing-places.

Control of Pilots.

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the Port, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the Indian Ports Act, 1875, to pilot vessels.

Trustees to be vested with the right and privilege of maintaining pilots.

The Board may also, from time to time, make such bye-laws and regulations as they shall think fit:

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations, by the imposition of pecuniary penalties

alties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise as to them may appear expedient: Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

Bye-Laws.

Trustees empowered to make bye-laws.

73. The Board may, from time to time, make bye-laws:

(*a*) for the guidance of persons employed by them under this Act;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways, and other works constructed or acquired by them under this Act;

(*c*) for the use of the public landing places constructed by or belonging to them;

(*d*) for the reception and removal of goods brought within the premises of the Board;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act;

(*g*) for regulating, declaring, and defining the wharves, docks, and piers vested in the Board on which goods shall be landed from, and shipped on board vessels; and

(*h*) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter, or revoke any such bye-laws so made by them.

74. No

74. No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

Approval and publication of bye-laws.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

Cancelment by Government.

75. The Board may, in the bye-laws made under section 73, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Penalties for infringement of bye-laws.

76. The Board shall cause the said bye-laws and the scales of rates and charges leviable by the Board, to be printed in the English, Marátháti and Gujaráti languages, and to be hung up at the several wharves, docks, and piers, and other convenient places on the premises of the Board.

Bye-laws and scales of rates and charges to be exhibited.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the Trustees appointed under the Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act.

Bye-laws framed under Bombay Act I., 1873, to continue in force temporarily under this Act.

VIII.—Penalties.

78. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly,

For being interested

in contracts with the Board.

indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code:

Provided that nothing in this section shall apply to a person—

(*a*) having a share in any Joint Stock Company which shall contract with, or be employed by, or on behalf of the Board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or,

(*c*) interested in any loan of money to the Board.

For obtaining illegal gratification

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person; or for rendering, or attempting to render, any service or disservice to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

For refusing or neglecting to appear before an Auditor of Accounts, &c.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such

every such neglect or refusal with fine which may extend to one hundred rupees.

For setting up any erection below high-water mark in the Port.

81. Any person, other than the Board or the Conservator of the Port, who shall, without first obtaining the written consent of Government to his so doing, make, set up, or fix, below high-water mark within the Port, any wharf, quay, pier, mooring, or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring, or other erection, to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring, or other erection, may be removed by the Board, and the person who made, set up, or fixed the same, shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

For understating quantity or weight of goods, &c.

82. If it be found when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor, in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall on the application of the Board be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For evading rates, &c.

83. Any person who removes, or attempts to remove, or abets within the meaning of the Indian Penal Code the removal of any goods, vessel, animal, or vehicle

or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

Recovery of value of damage to any property of the Board.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier, or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors, or stores belonging to such vessel: Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or, if he appears, until he has been heard, and provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized officer in the pilot service of the Port or of the Master Attendant's Department.

Cognizance of offences against this Act.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

IX.—Miscellaneous.

Provision when day appointed by this Act for any purpose falls on a Sunday or public holiday.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

87. No

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding. Limitation of suits, &c

The Board shall not be responsible for any misfeasance, mal-feasance, or non-feasance of any officer or servant appointed under this Act;

nor, if they should be appointed by Government, under the Indian Ports Act, 1875, Conservators of the Port, for any mis-feasance, mal-feasance or non-feasance of any Deputy Conservator, Master Attendant or Harbour-Master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the Board, which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done by them in pursuance of this Act.

SCHEDULE A.

Properties referred to in Section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Colába, belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of the Colába road appertaining thereto, and all rights, privileges, and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.

No.	Names of Holders.	General Description of Properties.
2	The New Colába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Colába Company, situated at Colába, commencing from the Colába road at the point where the properties of the New Colába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar wall of the Victoria Basin and the Harbour Face up to the junction of the New Colába Company's property with the Gun Carriage Reclamation; again commencing at the junction of the New Colába Company's property and the property of the Apollo Press Company and running along the Harbour Face and alongside the Arthur Basin up to the Colába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Colába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.
3	The Apollo Press Company.	All the land at Colába, the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun Carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandars belonging to the New Colába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder Works Bandar, the property of the Mázgaon Land Company, lying between the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon Land Company in respect of the said land.

5

No.	Names of holders.	General Description of Properties.
5	The Frere Land Company.	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubeeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the Trustees of the Port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Noor Mahomed.	
8	Manockjee Adurjee.	
9	Aitwar Lukdee.	
10	Muncherjee Framjee Cama.	
11	Dadabhoy Hormusjee.	
12	Hajee Essa Hajee Fuzla.	
13	Dorabjee Nusserwanjee.	
14	Byramjee Cowasjee.	
15	Esmail Mahomed Songaji.	

SCHEDULE B. (See Section 30.)

Form of Security.

The TRUSTEES of the PORT of BOMBAY.

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby for ourselves and our successors promise and agree to pay to , or order, the sum of Rupees , value received; such payment to be made on demand at the office of the Accountant General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree for ourselves and our

and our successors to pay to the said
or order, interest on the said sum of Rupees
from the day of until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the 1st day of April and the 1st day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common Seal this day of 187

(Signature of the Chairman and two Trustees.)

Seal *of the Corporation.*

SCHEDULE C. (SEE SECTION 33.)

Statement of Capital Debts of the Board due to the Secretary of State for India in Council.

On account of what Property, &c.	Bearing Interest.			Not bearing Interest.			Total.		
	Rs.	a.	p.	Rs.	a.	p.	Rs.	a.	p.
Elphinstone Estate, purchase price	1,85,91,596	12	8	.....					
Elphinstone Estate, expended in 11 months to 31st March 1871 ...	7,47,370	2	10	.....					
Elphinstone Estate, expended in 12 months to 31st March 1872 ...	2,75,090	8	6	.....					
Elphinstone Estate, Troop Siding, Carnac Bandar.	39,790	3	2	.....			1,96,53,847	11	2
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1871 ...	3,57,596	8	8	.....					
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March 1872 ...	2,01,345	6	4	.....			5,58,941	15	0

Apollo

On account of what Property, &c.	Bearing Interest.	Not bearing Interest.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Apollo Bay Reclamation, expended in year to 31st March 1872	9,752 11 11	.....	9,752 11 11
Wellington Reclamation, expended in year to 31st March 1872	934 12 8	.....	934 12 8
Apollo Pier, expended prior to 31st March 1870	.....	2,23,038 12 2	
Apollo Pier, expended in year to 31st March 1871.	1,38,173 7 8	.....	
Apollo Pier, expended in year to 31st March 1872.	61,825 9 2	.....	4,23,037 13 0
Tank Bandar, expended in year to 31st March 1871	182 0 0	.....	182 0 0
Customs Bonded Warehouse — Apollo Bonded Warehouse .	.....	5,50,000 0 0	
Customs Bonded Warehouse — Custom-house Godown. ...	.....	25,165 0 0	5,75,165 0 0
Kussara Bandar	.....	5,285 0 0	5,285 0 0
Saw Mill Property, Tank Bandar	.....	41,189 14 4	41,189 14 4
Expended on the above properties between 31st March 1872 and the passing of Bombay Act I. of 1873	1,45,053 5 4	.....	1,45,053 5 4
Balance of Interest unpaid at 31st March 1871 ...	2,75,273 4 7	.....	6,02,042 10 0
Balance of Interest unpaid at 31st March 1872 ...	1,50,233 3 2		
Balance of Interest unpaid for the period from 1st April 1872 until the date on which Bombay Act I. of 1873 came into operation	1,76,536 2 3		
Total Rs....	2,11,70,754 2 11	8,44,678 10 6	2,20,15,432 13 5

SCHEDULE 15

SCHEDULE D. (SEE SECTION 42.)

Form of Debenture.

THE TRUSTEES OF THE PORT OF BOMBAY.

The 18

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled "The Bombay Port Trust Act, 1879," we, the Trustees of the Port of Bombay, in consideration of the sum of Rupees paid to us by *A. B.*, of promise to pay to the said , or order, the said sum of Rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of

Given under our Corporate Seal this day of 187

(*Signatures of the Chairman and two Trustees.*)

Seal *of the Corporation.*

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

BOMBAY ACT No. VII. OF 1879.

[*Received the assent of the Governor of Bombay on the 4th August* 1879, *and of the Governor-General on the* 19*th September* 1879, *and published by the Governor of Bombay on the 2nd October* 1879.]

An Act to provide for Irrigation in the Bombay Presidency.

WHEREAS it is necessary to make provision for the construction, maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Bombay Presidency ; It is enacted as follows :— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called "The Bombay Irrigation Act, 1879." Short title.

It extends to the whole of the Presidency of Bombay, except the City of Bombay. Local extent

2. In Section 55 of the Bombay Land Revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted; Sections 55, 101 and 105 of the Bombay Land Revenue Code, 1879, amended.

and

[*Price Seven and Half Anna.*]

and in Section 101 of the said Code for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to Section 105 of the said Code the words "or of the Bombay Irrigation Act, 1879," shall be added.

Interpretation section.

3. In this Act, unless there be something repugnant in the subject or context,

(1)—"canal" includes—

"Canal"

(*a*) all canals, channels, pipes, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes, or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of section five, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

"Water-course"

(2)—"water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary

subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe ;

(3)—" drainage-work " means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section fifteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns ; " Drainage work."

(4)—" flood-embankment " means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments ; " Flood-embankment."

(5)—" Collector " means the head revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act ; "Collector."

(6)—" canal officer " means any officer lawfully appointed or invested with powers under section four ; " Canal Officer."

(7)—"owner " includes every person having a joint interest in the ownership of the thing specified ; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership. " Owner."

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may Appointment of Canal Officers

(*a*) appoint

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit,

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Proviso.

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II.

OF THE CONSTRUCTION AND MAINTENANCE OF CANALS.

Application of Water for purposes of Canals.

Notification to issue when water-supply is to be applied for purposes of any Canal.

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal;

the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

6. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ, such subordinates and other persons as he deems fit.

7. Whenever

Entry for enquiry.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

Power to inspect and regulate water-supply.

8. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land, building, or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

9. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

10. When

Notice to occupier of building, &c.

10. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Bombay Government Gazette*, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream, or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

Canal officer may issue order to person causing obstruction.

13. Any canal officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

14. If,

14. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

15. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage-works are necessary Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by sections seven, eight, and nine, and shall be liable to the obligations imposed upon canal officers by sections ten and thirty-four.

PART III.

Of Water Courses.

Construction of New Water Courses.

16. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land

Application may be made for construc-

tion by a canal officer of a new water-course.

land required for the same, may apply, in writing, to any canal officer duly empowered to receive such applications, stating

(1)—that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course;

(2)—that he desires the said canal officer in his behalf and at his cost to do all things necessary for constructing such water-course.

Procedure when canal officer considers construction of such water-course expedient.

18. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

Person wishing to be joint owner must make his application within thirty days.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

If his application is admitted, he will be

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring

acquiring the land for the same, and shall be an owner of such water-course when constructed.

liable for a share of the cost.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section seventeen of the said Act.

Collector to acquire land.

20. On being put in possession of the land, the canal officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

21. Every owner of a water-course shall be bound—

Obligations of owner of water-course.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section twenty-three;

Rights of owners and users of water-courses.

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under section forty-four and by the rules made by the Governor in Council under section seventy.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties, or to any condition imposed under section twenty-three, any such person as aforesaid may at any time by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Canal officer after enquiry may authorize supply, or

23. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be

be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

declare applicant to be a joint owner.

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section twenty-one; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section twenty-three at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

Person who uses the water-course to pay a share of the expenses of repair.

Settlement of Disputes concerning Water-courses.

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance

Settlement of disputes as to mutual rights and

liabilities of persons interested in a water-course.

maintenance of a water-course, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon ;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.

Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application;

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a canal officer duly empowered to receive such applications in such form as shall from time to time be prescribed by Government in this behalf.

If

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

and water may be supplied for purposes other than those of irrigation.

Provisions as to Supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

Power to stop water-supply.

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority ;

(*b*) whenever and so long as any water course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom ;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water ;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water ;

(*e*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

29. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Duration of supply.

30. Every agreement for the supply of canal-water to any land, building, or other immoveable property

Agreements for supply

of water transferable with the property in respect of which supply is given;

property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

but right to use of water may not be transferred in any other case without permission of canal officer.

No person entitled to the use of any work or land appertaining to any canal, and except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell, or sub-let, or otherwise transfer his right to such use without the permission of a canal officer duly empowered to grant such permission.

PART V.

OF THE AWARD OF COMPENSATION.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Exceptions.

Provided that no compensation shall be so awarded in respect of any damage arising from

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section five, if no use have been made of such supply within the five years next before the date of the issue of the notification under section thirty-seven, or

(*d*) failure

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

33. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Summary Decisions.

34. In every case of entry upon any land or building under section six, section seven, section eight, or section nine, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

Compensation for damage caused by entry on land, &c.

and

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section thirty-one, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of the last two sections to be conclusive.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section seventy such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

37. As soon as practicable after the issue of a notification under section five, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections thirty-one and thirty-two shall be annexed to every such notice.

Claims to be preferred to the Collector.

38. All claims for compensation under this Act other than claims of the nature provided for in sections thirty-four and thirty-five, must be made before the Collector of the district in which such claim arises.

39. The

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight of the Land Acquisition Act, 1870, shall apply to such enquiries:

Collector to be guided by the provisions of the Land Acquisition Act, 1870.

Provided that instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of sections thirty-one and forty of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

Diminution in market-value to be considered in fixing the amount of compensation.

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for compensation awarded under section thirty-nine, shall become due three months after the claim for such compensation was made;

Compensation when due.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Interest.

Abatements of Land Revenue and Rent.

42. If compensation is awarded under section thirty-nine on account of a stoppage or diminution of

Abatement of revenue

demand on interruption of water-supply.

of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.

Of Water Rates.

Supply Rates.

Rates for supply of canal-water to be determined by Government.

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which exist-

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in-

respect

respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

ing water-supply is improved.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates.

45. If water supplied through a water-course be used in an unauthorized manner, ~~and if the~~ person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

Liability when person using water unauthorizedly cannot be identified.

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section seventy.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

Liability when water runs to waste.

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under section seventy.

All questions arising under this and the last preceding section shall, subject to the provisions of section sixty-seven, be decided by a canal officer duly empowered in this behalf.

47. All

Charges recoverable in addition to penalties.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Percolation and Leakage Rates.

Land deriving benefit from percolation liable to water-rate.

48. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

Protection Rate.

Levy of rate on lands irrigable, but not irrigated.

49. If at the close of any financial year it shall appear to the Governor in Council that the gross revenue from water supplied from any canal, or from the completed portion of any canal, during the said year has not amounted to five per centum of the total capital expended in the construction of such canal, or of the completed portion thereof, he may direct the levy in the year then next ensuing of a rate not exceeding eight annas per acre on all cultivated land which is under command of such canal, but is not irrigated; Provided—

(1)—that

(1)—that the rate to be so levied in respect of any such land shall not in any case exceed one-fourth of the full dry-crop rate at which such land is at the time being assessed for the purposes of the land-revenue; Provisoes.

(2)—that when the area of the land under command of the canal exceeds the area for which water is available therefrom for the irrigation during the monsoon months of such dry-crops as are ordinarily grown in the tract of country through which such canal passes, the maximum rate leviable under the foregoing proviso shall be reduced in the proportion which the area for which water is so available bears to the area under command.

For the purposes of this section the amount of the total capital expended on the construction of a canal, or of any completed portion of a canal, shall be ascertained and determined in such manner as Government shall direct. The proportion in which the maximum rate shall be reduced in respect of the lands under command of any canal to which the second proviso of this section is applicable, shall also be determined under the orders of Government.

50. The said rate shall not be leviable in respect of any land— Conditions on which the said rate shall be leviable.

(*a*) which has not been irrigable from such canal for a period exceeding three years;

(*b*) if during the year for which such rate might otherwise be levied, water sufficient for the irrigation of such land has not been supplied when duly applied for by the holder thereof;

(*c*) unless the net annual value of the produce of such land, or the productive powers thereof will be increased by the irrigation thereof by canal-water, after deducting all necessary expenses incurred in cultivating the same, conveying the water thereto, and paying all Government charges in respect of such irrigation;

(*d*) unless

(*d*) unless a canal officer duly empowered in this behalf shall have offered to permit the person who would otherwise be liable to pay the said rate, to construct the water-course necessary for conveying the water to the said land under section sixteen, or, if the said person shall so prefer, to apply the provisions of sections eighteen, nineteen, and twenty, or of sections twenty-two and twenty-three, as the case may be, for the construction of a water-course, or for authorizing such person to use or to become a joint owner of some other water-course,

and shall have tendered an advance of money sufficient to provide for the construction of the said water-course or the acquisition of such authority or joint ownership, as the case may be; such advance to be repayable in conformity with the rules for recovering advances made under the Land Improvement Act, 1871.

Questions as to fulfilment of said conditions to be determined by the Collector.

If any question shall arise whether the aforesaid conditions have been complied with it shall be determined by the Collector.

Responsibility for rate on whom to rest.

51. If there are both superior and inferior holders of any land in respect of which the said rate is chargeable, the rate shall be payable by the superior holder, who shall be entitled to assistance in the recovery of the same from the inferior holder in accordance with the law at the time in force for assisting such superior holders in recovering land revenue demands from their inferior holders.

Procedure for determining Liability to Protection Rate.

Collector to publish notice of

52. Immediately on the issue of an order by the Governor in Council for the levy of a rate under section forty-nine a general notice shall be published by

by the Collector of every district affected thereby, proclaiming the liability of all lands under command of the canal to the rate prescribed in the said order, unless such lands are irrigated, and setting forth the general boundaries within which the same will be leviable.

liability of irrigable lands.

53. As soon as practicable after the issue of a notice under the last preceding section a canal officer duly empowered in this behalf shall prepare and submit to the Collector a sketch map showing clearly the extent and boundaries of the area under command of the canal, or of the completed portion of the canal, in his district.

Canal officer to prepare and submit to the Collector a sketch map.

54. The Collector shall by the aid of such sketch map, prepare a list of the land-holders whom he shall deem to be liable to the payment of the said rate.

Collector to prepare and publish list of persons liable to the rate.

The said list shall be published in such manner as the Collector deems fit in every village concerned, together with an intimation that all objections to any entry therein must be made to the Collector, in writing, within one month from the publication thereof.

55. All objections duly made within the said period shall be heard and determined by the Collector, or, if the Collector shall so direct, by the Assistant or Deputy Collector in charge of the táluka concerned, and the decision of the Collector, or of the Assistant or Deputy Collector, as the case may be, shall be final.

Hearing of objections.

56. A copy of the said list, as finally corrected, shall be given to the Pátel, or other officer empowered under section fifty-seven to collect the said rate, and shall be his warrant to collect the rate from the persons named therein.

Copy of list to be furnished to officer empowered to collect the rate.

Recovery of Water Rates and other Dues in Arrears.

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates

Water-rates when and

to whom to be paid.

dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Arrears to be recoverable as land-revenue.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III. of this Act which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

Rent due to owners of water-courses to be recoverable as arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the canal officer duly empowered to act under section twenty-three shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid: Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

PART VII.

OF OBTAINING LABOUR FOR CANALS ON EMERGENCIES.

Procedure for obtaining labour for works or repairs urgently required.

58. Whenever it appears to a Canal Officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that

that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance, or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

List of labourers.

59. Subject to such rules as may from time to time be prescribed under section seventy in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Reports to be made by Canal Officer.

60. All orders made under section fifty-eight shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART VIII.

Of Penalties.

For damaging canal, &c

61. Whoever voluntarily and without proper authority,

(1)—damages, alters, enlarges, or obstructs any canal;

(2)—interferes

(2)—interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

(3)—corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4)—destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(5)—destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6)—passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under section seventy, after he has been desired to desist therefrom;

(7)—causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or knowingly and wilfully permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8)—neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under section fifty-eight;

(9)—violates any rule made under section seventy for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(10)—being responsible for the maintenance of a water-course, or using a watercourse, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section twenty-three;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c.

62. Whoever without proper authority,

(1)—pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy, or endanger the stability of any canal;

(2)—opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any canal;

(3)—makes any dam or obstruction for the purpose of diverting or opposing the current of a river, or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description

description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal Officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Persons employed on canal may take offenders into custody.

64. Any person in charge of, or employed upon any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest Police Station, to be dealt with according to law, any person who within his view—

(1)—wilfully damages, obstructs, or fouls any canal, or

(2)—without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine

fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART IX.

MISCELLANEOUS.

Appeals against orders under this Act.

67. Every order passed by a canal officer under sections thirteen, eighteen, twenty-five, thirty, forty-five, forty-six and forty-eight shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner of the division.

Power to summon and examine witnesses.

68. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

Service of notices.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein

named

named ordinarily dwells or carries on business ; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules.

70. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*c*) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act,

(*e*) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules so made.

Publication of Rules.

Such rules, alterations, and cancelments shall be published in the *Bombay Government Gazette*, and shall thereupon have the force of law.

Saving of Municipal water-works.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

BOMBAY ACT No. VII. OF 1879.

(*As amended by Bombay Act No. III. of* 1880).

[*Received the assent of the Governor of Bombay on the 4th August* 1879, *and of the Governor-General on the* 19*th September* 1879, *and published by the Governor of Bombay on the 2nd October* 1879.]

An Act to provide for Irrigation in the Bombay Presidency.

WHEREAS it is necessary to make provision for the construction, maintenance, and regulation of canals, for the supply of water therefrom, and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows:— Preamble.

PART I.—PRELIMINARY.

1. This act may be called "The Bombay Irrigation Act, 1879." Short title.

It extends to the whole of the Presidency of Bombay, except the City of Bombay. Local extent.

2. In Section 55 of the Bombay Land Revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted; Sections 55, 101 and 105 of the Bombay Land Revenue Code, 1879, amended.

and

[*Price Seven-and-half Annas.*]

and in Section 101 of the said Code for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to Section 105 of the said Code the words "or of the Bombay Irrigation Act, 1879," shall be added.

Interpretation section.

3. In this Act, unless there be something repugnant in the subject or context.

(1)—"canal" includes—

"Canal."

(*a*) all canals, channels, pipes, and reservoirs constructed, maintained, or controlled by Government for the supply or storage of water;

(*b*) all works, embankments structures, and supply and escape channels connected with such canals, channels, pipes, or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes, or reservoirs;

(*c*) all water-courses, drainage-works, and flood-embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water, or natural drainage-channel, to which the Governor in Council may apply the provisions of section five, or of which the water has been applied or used before the passing of this Act for the purposes of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore difined, and which has been appropriated, under the orders of Government, for the purpose of such canal;

"Water-course."

(2)—"water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary

subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe;

"Drainage work."

(3)—"drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section fifteen or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins, and other works connected therewith, but does not include works for the removal of sewage from towns;

"Flood-embankment."

(4)—"flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation works for the protection of lands from inundation, or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams, and other protective works connected with such embankments;

"Collector."

(5)—"Collector" means the head revenue officer of a district, and includes any officer appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act;

"Canal Officer."

(6)—"canal officer" means any officer lawfully appointed or invested with powers under section four;

"Owner."

(7)—"owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

Appointment of canal officers.

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may

(*a*) appoint

(*a*) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act as Government or such officer may deem fit,

(*b*) invest any Government officer in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit :

Proviso.

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II.—Of the construction and maintenance of Canals.

Application of Water for purposes of Canals.

Notification to issue when water-supply is to be applied for purposes of any canal.

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake, or any other natural collection of still water should be applied or used by the Government for the purpose of any existing or projected canal ;

the Governor in Council may, by notification in the *Bombay Government Gazette*, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of Entry on Land, &c.

Powers of canal officers for the purpose of so applying a water-supply.

6. At any time after the day so named any canal officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel, and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute, or employ, such subordinates and other persons as he deems fit.

7. Whenever

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may

Entry for enquiry.

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section four of the Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

8. Any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land, building, or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to inspect and regulate water-supply.

9. In case of any accident being apprehended or happening to a canal, any canal officer duly empowered in this behalf and any person acting under the general or special order of any such canal officer, may enter upon any land adjacent to such canal and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Power to enter for repairs, and to prevent accidents.

10. When

Notice to occupier of building, &c.

10. When a canal officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court, or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage to be provided as may be deemed necessary by Government.

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts, or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Governor in Council may prohibit formation of obstructions of rivers, &c., within certain limits.

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream, or natural drainage-course, the Governor in Council may, by notification published in the *Bombay Government Gazette* prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream, or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section three.

Canal officer may issue order to person causing obstruction.

13. Any canal officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

14. If,

14. If, within the time so fixed, such person does not comply with the order, the canal officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

Canal officer may cause obstruction to be removed.

Construction of Drainage Works.

15. Whenever it appears to the Governor in Council that any drainage work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

When drainage works are necessary, Governor in Council may order a scheme to be drawn up and carried out.

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on canal officers by sections seven, eight, and nine, and shall be liable to the obligations imposed upon canal officers by sections ten and thirty-four.

PART III.—Of Water-courses.

Construction of New Water-courses.

16. Any person may, with the permission of a canal officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Construction of new water-courses by private arrangement.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land

Application may be made for construc-

tion by a canal officer of a new water-course

land required for the same, may apply, in writing to any canal officer duly empowered to receive such applications, stating

(1) that he is ready to defray all the expenses necessary for the acquiring the land and constructing such water-course ;

(2) that he desires the said canal officer in his behalf and at his cost to do all things necessary for canstructing such water-course.

Procedure when canal officer considers construction of such water-course expedient.

18. If the canal officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated for publication on such land.

Person wishing to be joint owner must make his application within thirty days.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the canal officer within thirty days of the publication of such notification.

If his application is admitted, he will be

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring

acquiring the land for the same, and shall be an owner of such water-course when constructed.

liable for a share of the cost.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition thereof under section six of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section seven of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section seventeen of the said Act.

Collector to acquire land.

20. On being put in possession of the land, the canal officer shall construct the required water-course; and on its completion shall give to the owner notice thereof and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum small be due from the owner to the canal officer. On receipt of payment in full of all expenses incurred, the canal officer shall make over possession of such water-course to such owner.

Procedure after construction of water-course.

Rights and Obligations of Owners of Water-courses.

21. Every owner of a water-course shall be bound—

Obligations of owner of water-course.

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels, and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section twenty-three;

Rights of owners and users of water-courses.

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

(*d*) to have a supply of water by such water-course at such rates and on such terms as may from time to time be prescribed under section forty-four and by the rules made by the Governor in Council under section seventy.

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties or to any condition imposed under section twenty-three, any such person as aforesaid may at any time by giving three months' previous notice in writing in this behalf to a canal officer duly empowered to receive such notices, resign his interest in such water-course.

Person other than owner may arrange with owner to have supply of water through water-course, or may apply to canal officer to authorize supply or declare him a joint owner.

22. Any person desiring to have a supply of water through a water-course, of which he is not an owner, may make a private arrangement with the owner for permitting the conveyance of water thereby, or may apply to a canal officer duly empowered to receive such applications for authority to use such water-course, or to be declared a joint owner thereof.

Canal officer after enquiry may authorize supply, or

23. On receipt of any such application, the canal officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be

be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

declare applicant to be a joint owner

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a canal officer duly empowered to grant such permission.

Land acquired for a water-course may not be used for other purpose.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section twenty-one; any canal officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf; and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work, or to repair his water-course, canal officer may execute the same on his behalf.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a canal officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section twenty-three at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said canal officer.

Person who uses the water-course to pay a share of the expenses of repair.

Settlement of Disputes concerning Water-courses.

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction, or maintenance

Settlement of disputes as to mutual

rights and liabilities of persons interested in a water-course.

maintenance of a water-course, or among joint owners of a water-course as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

any person interested in the matter of such dispute may apply, in writing, to any canal officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a civil court.

PART IV.—Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application;

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a canal officer duly empowered to receive such applications in such form as shall from time to time be prescribed by Government in this behalf.

If

If the application be for a supply of water to be used for purposes other than those of irrigation, the canal officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control, and measurement of the supply as he shall be empowered by Government to impose in each case.

and water may be supplied for purposes other than those of irrigation.

Provisions as to Supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

Power to stop water-supply.

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received, is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*e*) within periods fixed from time to time by a canal officer duly empowered in this behalf, of which due notice shall be given.

29. When canal water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Duration of supply.

30. Every agreement for the supply of canal-water to any land, building, or other immoveable property

Agreements for supply.

of water transferable with the property in respect of which supply is given;

property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building, or other immoveable property takes place.

but right to use of water may not be transferred in any other case without permission of canal officer.

No person entitled to the use of any work or land appertaining to any canal, and except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell, or sub-let, or otherwise transfer his right to such use without the permission of a canal officer duly empowered to grant such permission.

PART V.—Of the Award of Compensation.

Compensation when claimable.

Compensation to be paid in all cases of ascertainable substantial damage.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation :

Exceptions.

Provided that no compensation shall be so awarded in respect of any damage arising from

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber, or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section five, if no use have been made of such supply within the five years next before the date of the issue of the notification under section thirty-seven, or

(*d*) failure

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(1) any cause beyond the control of Government,

(2) the execution of any repairs, alterations or additions to the canal, or

(3) any measures considered necessary by any canal officer duly empowered in this behalf for regulating the proper flow of water in the canal, or for maintaining the established course of irrigation;

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Remission of water-rates when allowable.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Limitation of claims.

33. No compensation shall be claimable under this Act in respect of any work executed before it came into force, or of any damage caused by or in the execution of any such work.

Compensation not claimable in respect of works executed before this Act came into force.

Summary Decisions.

34. In every case of entry upon any land or building under section six, section seven, section eight, or section nine, the canal officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building, or other property,

Compensation for damage caused by entry on land, &c.

and

and within one month from the date of such entry compensation shall be tendered by a canal officer duly empowered in this behalf to the land-holder, or owner of the property damaged.

If such tender is not accepted, the canal officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section thirty-one, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the canal officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of the last two sections to be conclusive.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if in any rule framed under section seventy such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation in certain cases.

37. As soon as practicable after the issue of a notification under section five, the Collector shall cause public notice to be given at convenient places, stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him.

A copy of sections thirty-one and thirty-two shall be annexed to every such notice.

Claims to be preferred to the Collector.

38. All claims for compensation under this Act other than claims of the nature provided for in sections thirty-four and thirty-five, must be made before the Collector of the district in which such claim arises.

39. The

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant, and sections eleven, twelve, fourteen, fifteen, eighteen to twenty-three (inclusive), twenty-six to forty (inclusive), fifty-one, and fifty-eight of the Land Acquisition Act, 1870, shall apply to such enquiries:

Collector to be guided by the provisions of the Land Acquisition Act, 1870

Provided that instead of the last clause of the said section twenty-six the following shall be read: "The provisions of this section and of sections thirty-one and forty of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed;

Diminution in market-value to be considered in fixing the amount of compensation.

and where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for compensation awarded under section thirty-nine, shall become due three months after the claim for such compensation was made;

Compensation when due.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same.

Interest.

Abatements of Land Revenue and Rent.

42. If compensation is awarded under section thirty-nine on account of a stoppage or diminution of

Abatement of revenue demand on

interruption of water-supply.

of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water supply.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.—OF WATER RATES.

Supply Rates.

Rates for supply of canal water to be determined by Government

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect

respect of which either no revenue, or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

supply is improved

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates.

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

Liability when person using water unauthorizedly cannot be identified.

or if no land has derived benefit therefrom, the person or all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section seventy.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

Liability when water runs to waste.

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable or jointly liable, as the case may be, for the charges which shall be made, in respect of the water so wasted, under the rules prescribed by the Governor in Council under section seventy.

All questions arising under this and the last preceding section shall, subject to the provisions of section sixty-seven, be decided by a canal officer duly empowered in this behalf.

47. All

Charges recoverable in addition to penalties.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Percolation and Leakage Rates.

Land deriving benefit from percolation liable to water-rate.

48. If it shall appear to a canal officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

49 to 56 *(Relating to Protection Rate repealed by Bombay Act No. III. of* 1880*).*

Recovery of Water Rates and other Dues in Arrears.

Water-rates when and to whom to be paid.

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Arrears to be recover-

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum

sum due to Government or to a canal officer, whether on behalf of Government or of any other person, under Part III. of this Act which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

able as land revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the canal officer duly empowered to act under section twenty-three shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid : Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

Rent due to owners of water-courses to be recoverable as arrears of land revenue.

PART VII.—Of obtaining Labour for Canals on emergencies.

58. Whenever it appears to a canal officer duly empowered to act under this section, that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

Procedure for obtaining labour for works or repairs urgently required.

or, that, unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance, or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance, or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locality where such repair, clearance, or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance, or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

List of labourers.

59. Subject to such rules as may from time to time be prescribed under section seventy in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Reports to be made by canal officer.

60. All orders made under section fifty-eight shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation for the information of Government.

PART VIII.—Of Penalties.

For damaging canal, &c.

61. Whoever voluntarily and without proper authority,

(1)—damages, alters, enlarges, or obstructs any canal;

(2)—interferes

(2)—interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over, or under any canal, or by any means raises or lowers the level of the water in any canal;

(3)—corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(4)—destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(5)—destroys, tampers with, or removes any apparatus, or part of any apparatus, for controlling, regulating, or measuring the flow of water in any canal;

(6)—passes, or causes animals or vehicles to pass in or across any of the works, banks, or channels of a canal contrary to rules made under section seventy, after he has been desired to desist therefrom;

(7)—causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers, or causes, or knowingly and wilfully permits cattle to be tethered upon any such canal or embankment, or roots up any grass, or other vegetation growing on any such canal or embankment, or removes, cuts, or in any way injures or causes to be removed, cut, or otherwise injured any tree, bush, grass, or hedge intended for the protection of such canal or embankment;

(8)—neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance, or work, when lawfully bound so to do under section fifty-eight;

(9)—violates any rule made under section seventy for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and

and whoever—

(10)—being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner, or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section twenty-three;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment of either description within the meaning of the said Code, for a term which may extend to one month, or with both.

For endangering stability of a canal, &c

62. Whoever without proper authority,

(1)—pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy, or endanger the stability of any canal;

(2)—opens, shuts or obstructs, or attempts to open, shut or obstruct any sluice in any canal;

(3)—makes any dam or obstuction for the purpose of diverting or opposing the current of a river, or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate of the First or Second Class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment of either description

description within the meaning of the said Code, for a term which may extend to six months, or with both.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction, or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any canal officer duly empowered in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Person employed on canal may take offenders into custody.

64. Any person in charge of, or employed upon any canal, may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest Police Station, to be dealt with according to law, any person who within his view—

(1)—wilfully damages, obstructs, or fouls any canal, or

(2)—without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream, so as to endanger, damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act: provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine

fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART IX.—MISCELLANEOUS.

Appeals against orders under this Act.

67. Every order passed by a canal officer under sections thirteen, eighteen, twenty-five, thirty, forty-five, forty-six and forty-eight shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner of the division.

Power to summon and examine witnesses.

68. Any officer empowered under this Act to conduct any enquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts by the Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

Service of notices.

69. Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named

named ordinarily dwells or carries on business; and if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter, and cancel rules.

70. The Governor in Council may from time to time make rules not inconsistent with this Act to regulate the following matters :—

(*a*) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*c*) the person by whom, the time, place, or manner at or in which, anything for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act,

(*e*) and generally to carry out the provisions of this Act..

The Governor in Council may, from time to time, alter or cancel any rules so made.

Publication of Rules.

Such rules, alterations, and cancelments shall be published in the *Bombay Government Gazette*, and shall thereupon have the force of law.

Saving of Municipal water works.

71. Nothing in this Act shall be deemed to apply to any canal, channel, reservoir, lake, or other collection of water vesting in any municipality.

BOMBAY ACT No. I. OF 1880.

[*Received the assent of the Governor of Bombay on the 10th January 1880, and of the Governor-General on the 21st April 1880, and published by the Governor of Bombay on the 6th May 1880.*]

An Act to amend the law relating to the settlement of Villages held by Khots.

WHEREAS it is expedient to make special provision for the settlement and revenue administration of villages in the Ratnágiri district which are held by khots; It is enacted as follows:—

PART I.—PRELIMINARY.

1. This Act may be cited as "The Khoti Settlement Act, 1880." Short title.

It extends to all villages held by khots in the district of Ratnágiri. Extent

The Governor in Council may from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

2. Sections thirty-seven and thirty-eight of the Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended: Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section twenty-eight of the said Act. Repeal of Sections 37 and 38 of Bombay Act I. of 1865.

3. In

[*Price Four-and-half Annas.*]

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context,

"Village."

(1) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof;

"Khot."

(2) "khot" includes:

(*a*) a mortgagee lawfully in possession of a khotki,

(*b*) all co-sharers in a khotki;

"Khotki."

(3) "khotki" means the aggregate of the rights and interests vested in a khot as such;

"Jama."

(4) "jama" means land-revenue payable by a khot to Government;

"Privileged occupant."

(5) "privileged occupant" means:

(*a*) a dhárekari, or

(*b*) a quasi-dhárekari, or

(*c*) an occupancy-tenant;

"Dhárekari."

(6) "dhárekari" means a land-holder who holds on the "dhára" tenure;

"Quasi-dhárekari."

(7) "quasi-dhárekari" means a land-holder of any of the denominations named in the first column of the Schedule hereto annexed;

"Occupancy-tenant."

(8) "occupancy tenant" means a holder of khoti land who has a right of occupancy in such land;

"Dhára land."

(9) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari;

"Khoti land."

(10) "khoti land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land;

"Part," "Section."

(11) "part" and "section" mean respectively a part and section of this Act;

Expressions defined in the Bombay Land Revenue Code.

(12) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

PART

PART II.—General Provisions relating to Khots and their inferior holders.

Khots.

4. Khots shall continue to hold their villages conditionally on the payment of the amounts due on account of the jama of the same, according to the provisions of this Act and of the Bombay Land Revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure.

Continuance of khots' villages to be subject to payment of jama.

Inferior Holders.

5. Every holder of khoti land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

What holders are to be deemed occupancy-tenants.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be the occupation or cultivating of the present holder within the meaning of this section;

and in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

6. If an occupancy right which is not transferable otherwise than by inheritance, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time

Right of occupancy when land has been wrongfully transferred.

time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein :

Provided that if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

Continuance of privileged occupants' tenures

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

Ordinary tenants

8. Tenants other than occupancy-tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate, provided that the said rates shall not exceed the maxima prescribed in section 33, clause (*c.*)

Transfer, &c., of Rights.

What rights are transferable.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66,

or

or unless in the case of an occupancy right conferred by the khot under section 11, the khot grants such right of transfer of the same.

Resignation, lapse, or forfeiture of privileged occupants' lands.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed, or forfeited, shall be at the disposal of the khot as khoti land free of all encumbrances, other than liens or charges created or existing in favor of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupants' Rights by Khots.

Privileged occupants' rights may be conferred by khots.

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of any class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class: Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest produce of such land.

Record of grant.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall cause an entry to be made in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated by the Collector's signature shall be conclusive proof of the facts therein recorded.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession

sion of a khotki unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

Commutation-rates for rent payable in kind.

13. Whenever application is made to the Collector under section 86 of the Bombay Land Revenue Code, 1879, for assistance to recover rent from a privileged occupant, tenant or co-sharer and the rent claimed is payable in kind, the Collector may, if he thinks fit, direct the recovery of the money-value of such rent, and in such case the money-value shall be estimated at such commutation-rates as the Collector may fix in this behalf for the year for which such rent is due.

Rent of land which an occupancy-tenant neglects to cultivate.

14. If an occupancy-tenant neglect to raise a crop on any land in his holding on account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

In the event of a dispute as to the amount of rent due under this section such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

15. The khot shall

Khots to keep accounts;

(*a*) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

and to produce them when required;

(*b*) produce such accounts, whenever required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahálkari, and

and to give written receipts.

(*c*) give a written receipt for every payment of rent or land revenue made to him whether by

by a privileged occupant or tenant, or by a co-sharer in his khotki.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector or the Assistant or Deputy Collector in charge of the táluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jama. **Penalty.**

PART III.—Survey and Settlement.

Settlement Records.

16. Whenever a survey settlement of the land revenue of any village to which this Act extends is made or revised under the provisions of Chapter VIII. of the Bombay Land Revenue Code, 1879, the Settlement Register prepared under section 108 of the said Code shall show the area and assessment of each survey number and also whether such survey number is held by a privileged occupant or not. **Preparation of Settlement Register of khoti villages.**

If a survey number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

17. The

Privileged occupants' rents to be fixed.

17. The other records prepared under the said section shall specify the nature and amount of rent payable to the khot by each privileged occupant according to the provisions of section 33 of this Act, and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established.

When the khotki is undivided, the co-sharers' respective rights to be recorded.

18. If the khotki is undivided the said records shall also specify:

(*a*) the survey numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same, and

(*b*) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility, and

(*c*) the order of rotation in which the said co-sharers agree in writing, if they do so agree, to take the management of the village under the provisions of section 27 of this Act.

When the khotki is divided, each share to be treated separately.

19. If a partition has been effected and the co-sharers of the khotki hold their respective shares in severalty, the said records shall specify:—

(*a*) the extent and limits of each such separate share, and

(*b*) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by the last preceding section to be given concerning all the co-sharers when a khotki is undivided.

Determination

Determination of Disputes.

20. If it shall appear to the survey officer, who frames the said register or other record, that there exists any dispute as to any matter which he is bound to record, he may, either on the application of any of the disputant parties, or of his own motion, investigate and determine such dispute and frame the said register or other record accordingly.

Disputes to be determined by survey officer.

21. In any such matter the decision of the said survey officer, when not final, shall be binding upon all the parties affected thereby until reversed or modified by a final decree of a competent court.

Survey officer's decision when not final to be set aside only by a decree of court.

22. No suit shall lie against the said survey officer, or against Government, or any officer of Government to set aside any such decision of a survey officer; but the record shall from time to time be amended by the said survey officer, or when the survey settlement is concluded, by the Collector, in accordance with any such decree as aforesaid which the parties may obtain *inter se* on an application, accompanied by a certified copy of such decree, being duly made to the said survey officer, or to the Collector for that purpose.

Bar of suits against survey officer or Government.

PART IV.—ADMINISTRATION OF SURVEY SETTLEMENTS MADE UNDER THIS ACT.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey settlement, or a revised survey settlement of such village and declares the assessments settled thereunder fixed for a period of years, in accordance with section 102 of the Bombay Land Revenue Code, 1879.

Provisions of this Part when to apply.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in

in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jama.

Jama how to be calculated.

24. The jama payable to Government by the khot shall be the aggregate of the survey assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

Amount to be fixed for certain periods.

The amount of the said jama shall be from time to time fixed for the same period for which the survey assessments are fixed.

Managing Khots.

Abolition of khots' kabuláyats.

25. The annual kabuláyats hitherto executed by khots shall no longer be required from them: Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

Appointment of "Managing Khot."

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jama, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the Bombay Land Revenue Code, 1879, be deemed to be the registered occupant of all survey numbers in the village not held by privileged occupants.

Managing khot how to be nominated.

27. If the co-sharers have, at the time of the framing of the survey settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall

shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, the co-sharers shall be called upon to nominate one of their number year by year, and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the Bombay Land Revenue Code, 1879.

Collector's nomination not to be disputed.

28. A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination.

But suits in respect to the right of management not barred amongst the khots themselves.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the management, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

Managing khot's certificate.

29. Except as is hereinafter provided, the mámlatdár shall furnish every managing khot with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates, and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

30. When

Managing khot when there are no co-sharers.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

Exclusive power of managing khot.

31. When a managing khot has been duly appointed under any of the foregoing provisions, he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the Bombay Land Revenue Code, 1879.

Separated Sharers.

Separated sharers to be severally responsible for their respective shares.

32. When the khots have divided their khotki or a partition thereof has been effected by the civil court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jama payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jama so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkis.

Privileged Occupants' Rents.

Nature and amount of rent payable by privileged occupants.

33. The rent payable to the khot by privileged occupants shall be as follows, (namely) :—

(*a*) by a dhárekari : the survey assessment of his land ;

(*b*) by a quasi-dhárekari : the survey assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule hereto annexed.

(*c*) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the

the framing of the survey record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey officer who frames the survey record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate.

Privileged occupants' rents how and when to be paid.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments and subject to such rules not inconsistent with the provisions of this Act as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, &c.

Abolition of all cesses, &c.

35. It shall not be lawful for any khot to levy *phaski*, *veth*, *nángarveth*, *wartála*, or any other cess, rate, tax or service of any description, or denomination whatsoever from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

Khot's liability for Local Fund cess.

36. Local Fund cess at such rate as shall from time to time be fixed by Government under section 6 of the Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jama.

Dhárekaris and quasi-dhárekaris to what

The khot shall be entitled to assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, for recovery of the said cess at the said rate

extent liable for the cess.

rate from dhárekaris and quasi-dhárekaris on every rupee of the survey assessment of the lands in their respective holdings.

Other inferior holders not liable for the cess.

Inferior holders of khoti lands shall not be liable to Local Fund cess, anything contained in section 8 of the Bombay Local Funds Act, 1869, to the contrary notwithstanding.

PART V.—MISCELLANEOUS.

Existing survey settlements confirmed.

37. Existing survey settlements of the land revenue of any village to which this Act extends, made, approved, and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

New settlements may be substituted for existing settlements.

38. Upon the expiry of the period of any such guarantee, or if it shall appear to the Governor in Council that a majority of the landholders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey settlement shall be introduced into the village in which such guarantee was in force and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

Bombay Land Revenue Code, 1879, how far inapplicable to khoti villages.

39. Nothing in sections 68, 72, 73, 74, 99 clause (*b*), 104 para. 2, 112, 150 clause (*b*), and 153 of the Bombay Land Revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

The

The provisions of the said Code when applied to any such village shall be subject to the following modifications (namely) :—

(*a*) when a survey settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jama payable by the khot shall be announced in lieu of the assessment fixed on each survey number;

(*b*) sections 118, 119, and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village officers," and the words "village officers" and the words "village officers and servants," wherever they occur;

(*c*) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jama of his village;

(*d*) the word alienated in clause (*f*) of section 150 shall be deemed to be omitted; and

(*e*) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within 12 years from the first day of August next after such date.

Rules to be made by the Governor in Council.

40. The Governor in Council may, by notification in the *Bombay Government Gazette*, from time to time frame, and from time to time vary, or rescind rules not inconsistent with the provisions of this Act—

(*a*) for the inspection and appraisement of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land;

(*b*) for determining what land is dhára land;

(*c*) for allotting to each privileged occupant, when the exact limits of his warkas holding are not

not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(*d*) determining to what extent, if any, any rule, or order made under section 214 of the Bombay Land Revenue Code, 1879, shall be applicable to villages to which this Act extends;

(*e*) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(*f*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

Government may constitute uncultivated land a reserved forest.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots, it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority.

Explanation.—For the purposes of this section "uncultivated land" means land which has not been tilled for a period of 20 years next before the 1st June 1879, or the date of the order constituting such reserved forest.

Reserved forest constituted under the last preceding section to be subject to the provisions of the Indian Forest Act,

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the Indian Forest Act, 1878, and of any other law relating to forests for the time being in force, provided

(1) that

(1) that upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(2) that in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the Indian Forest Act, 1878, shall be applicable.

SCHEDULE (*see Section* 3, *Cl.* 7, *and Section* 33.)

Denomination of Quasi-dhárekaris.	Excess amount of rent payable for every Rupee and proportionately for every fraction of a Rupee of the Survey Assessment in respect of		
	Rice lands.	Warkas lands.	Bágáit or Rabi lands.
Daspatkari..	2 annas ...	2 annas	2 annas.
Dupatkari.	½ maund of rice in the husk.	5¼ pailis of grain (half *nachani* and half *vari*).	8 annas.
Didpatkari or Didiwala.	3 pailis of rice in the husk.	2 pailis of grain (half *nachani* and half *vari*).	3 annas.
Paupedupatkari.	6 pailis of rice in the husk.	4 pailis of grain (half *nachani* and half *vari*).	6 annas.

BOMBAY ACT No. II. OF 1880.

[*Received the assent of the Governor of Bombay on the 27th January* 1880, *and of the Governor-General on the 21st April* 1880, *and published by the Governor of Bombay on the 6th May* 1880.]

An Act to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay.

WHEREAS the Government of India has agreed to advance to the Municipal Corporation of the City of Bombay a sum not exceeding thirty-six lakhs of rupees for the purpose of constructing new water-works, and a further sum not exceeding six lakhs of rupees for the purpose of improving the surface-drainage of the Island of Bombay; and to permit the balances still due on account of the two loans of fifteen lakhs of rupees and four lakhs of rupees, of which the payment is secured by Bombay Act II. of 1872, to be repaid on the same terms as the said new loans; Preamble.

And whereas in accordance with the terms of the said agreement the said Municipal Corporation has since the 2nd November 1876 ceased to pay the monthly instalments accruing due under Bombay Act II. of 1872, but has since the said date paid interest at the rate of four-and-a-half per cent. per annum upon the said balances and upon the portions of the said new loans of thirty-six and six lakhs of rupees from time to time taken up by the said Municipal Corporation;

And

[*Price One and Half Annas*]

And whereas it is necessary to provide for the repayment of the consolidated amount of the said new loans and of the balances of the said former loans out of the Municipal Fund of the City of Bombay in manner hereinafter appearing ; It is enacted as follows :—

Short Title

1. This Act may be cited as "The Bombay Municipality's Consolidated Loan Act, 1880."

Commencement.

It shall come into force on such date as may be notified by the Governor in Council in the *Bombay Government Gazette.*

Repeal of Bombay Act II. of 1872.

2. Bombay Act II. of 1872 is repealed.

Interpretation Section.

3. In this Act :

"The Corporation."

(1.) "The Corporation" means the Municipal Corporation of the City of Bombay as constituted by Bombay Acts III. of 1872 and IV. of 1878, or by any other law for the time being in force ;

"Municipal Fund."

(2.) "Municipal Fund" means the Municipal Fund as defined by Section 65 of Bombay Act III. of 1872 or by any other law for the time being in force relating to the Municipal affairs of the City of Bombay.

"Consolidated loan."

(3.) "Consolidated loan" means the aggregate amount of the following sums, that is to say :

(*a*) The sum of thirty-six lakhs of rupees to be advanced by the Government of India to the Corporation for the purpose of constructing new water-works, or such portion thereof as may be taken up by the Corporation ;

(*b*) The sum of six lakhs of rupees to be similarly advanced for the purpose of carrying out the surface-drainage of the Island of Bombay, or such portion thereof as may be taken up by the Corporation ;

(*c*)

(*c*) The sum of rupees twelve lakhs and seventy thousand certified by the Accountant General of Bombay as the balance due by the Corporation to the Government of India on the 2nd November 1876 on account of the loan of fifteen lakhs of rupees secured by Bombay Act II. of 1872 ;

(*d*) The sum of rupees three lakhs and seventy thousand certified by the said Accountant General as the balance due by the Corporation to the Government of India on the said date on account of the loan of four lakhs of rupees secured by the said Act.

Interest only to be paid at first.

4. Until the 1st January 1881 the Municipal Commissioner on behalf of the Corporation shall continue to pay interest on the portion of the consolidated loan for the time being due by the Corporation to the Government of India at the rate of four-and-a-half per centum per annum.

Payments when to be made

The said payments of interest shall be made half-yearly on the first of January and the first of July.

Period of repayment.

5. The whole of the consolidated loan shall be repaid with interest at the aforesaid rate within thirty years next after the 1st January 1881 :

Mode of repayment.

And for the better securing of the repayment of the consolidated loan with interest as aforesaid within the said period, the Municipal Commissioner on behalf of the Corporation shall after the aforesaid date until the whole of the consolidated loan be liquidated, pay half-yearly on the first of January and the first of July the sum of one lakh seventy-eight thousand three hundred and twenty-six rupees and two annas and five pies, the first of such payments to be made on the 1st of July 1881.

Every payment made by the Corporation under this section and all moneys recovered from the Corporation in any of the manners hereinafter prescribed shall

shall be appropriated first to the payment of the interest due at the time of such payment or recovery and secondly to the reduction of the principal.

Payments where to be made.

6. All payments to be made by the Municipal Commissioner under either of the last two sections shall be made out of the Municipal Fund into Her Majesty's Treasury at Bombay, or to the credit of the Secretary of State in Council in any Bank which may now or hereafter be appointed to act as bankers and receive money in Bombay in behalf of the Government;

Notice of payment to be published.

and notice of every such payment having been made shall be forthwith published by the Municipal Commissioner in the *Bombay Government Gazette*.

In case of non-payment, report to be made to the Chief Secretary to Government.

7. If the Municipal Commissioner fail to make any of the said payments at the prescribed time, the Accountant General shall, within seven days after the day on which such payment ought to have been made, report the fact to the Chief Secretary to Government or other officer acting in that capacity.

Arrear may be recovered by detention of moneys due to the Corporation.

8. It shall be lawful for the Chief Secretary, or other officer acting in that capacity, when any of the said payments is in arrear, to direct any Government officer, not being an officer of the Bombay Municipality, to detain to the extent of any payment or payments then in arrear any moneys due or that may become due to the Corporation, which he may then or thereafter have in his custody or control, and such officer shall be bound to detain the moneys which he is so directed to detain and to pay the same as they become due to the Corporation into Her Majesty's Treasury or into any Bank as aforesaid to the credit of the Secretary of State for India in Council, and the moneys so paid shall be applied in or towards satisfaction of the amount for the time being due in respect of the consolidated loan and of all other sums payable under this Act, in preference to and with priority over all incumbrances on and claim

claims to such moneys other than those created under Bombay Act III. of 1870.

Or by attachment of the municipal fund, &c.

9. If the amount in arrear cannot be recovered in the manner provided in the last preceding section, the Governor in Council may attach the municipal fund, or any rate, tax, toll, or duty leviable by the Corporation.

After such attachment no person, except an officer appointed by the Governor in Council, shall in any way deal with the attached fund, rate, tax, toll, or duty; but such officer may do all acts in respect thereof which the Corporation or the Municipal Commissioner might have done, if such attachment had not taken place, and may apply the proceeds in satisfaction of the amount in arrear and of all expenses involved by the attachment and subsequent proceedings:

Attachment not to defeat prior charges legally made.

Provided that no such attachment shall defeat or prejudice any debt for which the fund, rate, tax, toll, or duty attached was previously pledged in accordance with law; but all such prior charges shall be paid out of the proceeds of the fund, rate, tax, toll, or duty attached before any part of the proceeds is applied to the satisfaction of a liability incurred under this Act.

Other rights and remedies of the Government of India not to be affected.

10. Nothing in this Act shall affect the rights or remedies which the Government of India has or shall have independently of this Act for the recovery of the moneys advanced or to be advanced under this Act or any part thereof.

Account of balances due to Government of India to be published by the Municipal Commissioner yearly.

11. The Municipal Commissioner shall in the month of January in each year publish in the *Bombay Government Gazette* an account showing the balances due by the Corporation on the 31st December preceding on account of the consolidated loan, and of every other loan, if any, still repayable to the Government of India.

12.

Corporation not to borrow money except from Government of India or with its sanction.

12. Unless under the provisions of Section 7 of Act XI. of 1879, the Corporation shall not hereafter borrow money except from the Government of India.

Any new loan by the Government of India to be subject to the provisions of this Act.

If any new loan shall hereafter be granted to the Corporation by the Government of India, the same shall be subject, as regards repayment and security and in every other respect, to the same provisions as are hereinbefore contained in respect of the consolidated loan; save only that the rate of interest, the period of repayment, and the number and amount of the instalments shall, in the case of every such new loan, be fixed under the orders of the Government of India by the Governor in Council.

BOMBAY ACT No. III. OF 1880.

[*Received the assent of the Governor of Bombay on the* 11*th March* 1880, *and of the Governor-General on the* 21*st April* 1880, *and published by the Governor of Bombay on the* 6*th May* 1880.]

An Act to amend the Bombay Irrigation Act No. VII. of 1879.

Whereas it is deemed expedient to repeal certain sections of the Bombay Irrigation Act No. VII. of 1879, Preamble.

It is hereby enacted as follows :—

Sections 49 to 56, both inclusive, of the Bombay Irrigation Act No. VII. of 1879 are hereby repealed. Repeal of Sections 49 to 56 of Bombay Irrigation Act, 1879.

[*Price Half Anna.*]